

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 1980 OF 2018
IN
CRIMINAL APPEAL NO. 1473 OF 2018

Nitin Pandurang Vaiti ...Applicant.

vs.

The State of Maharashtra ...Respondent.

Mr. Sanjay Rupvate with Ms. Pooja R. Thakur for the Applicant.

Mr. H.J.Dedhia, APP. for the State.

CORAM: B.P.DHARMADHIKARI &
MRS.SWAPNA S. JOSHI, JJ.

DATE : 06th August, 2019

P.C.

1. Accused No.7 is before this court pointing out that accused No.2 who is alleged to have played major part in the crime has been released on bail on 15.4.2019 by this court. Submission is that applicant accused was at least 2 K.M. away from the spot where the alleged murder has taken place and only overt act attributed to him is pelting stones. It is pointed out that nobody is found to be injured by stones pelted allegedly by this accused or his colleagues and except for assertions on oath by so called eye witnesses there is no material on record to support it. Learned counsel submits that even as per the prosecution story after the accused persons intercepted

vehicle of deceased and his colleague deceased and his colleagues started running away and only three persons from accused side chased them.

2. Learned APP submits that the offence has taken place out of rivalry between two groups. Accused and his group arrived in one vehicle which intercepted the vehicle in which deceased and his colleagues were travelling. Deceased and his colleagues started running and they were chased. It is claimed that deceased received bullet injuries and expired.

3. After hearing respective counsel we find that it is not the case of prosecution that present applicant (accused No.7) after getting down of vehicle chased the deceased or his colleagues. Though there are six eye witnesses, none of them states that anybody was injured because of stones pelted by any accused person. Accused No.7 is in Jail since his arrest. He did not apply for bail during trial and thereafter during pendency of this appeal. Learned counsel for applicant states that twice he has been released on parole and he has reported back before due date.

5. Accused No.2 who is claimed to have played a more serious role was released on bail on 5.4.2019. This court has then found

that there is no possibility of appeal being heard finally in near future. In these circumstances, we are inclined to release the present applicant also on bail on following terms and conditions.

- (i) The applicant shall be released on bail on his furnishing PR bond in the sum of Rs.20,000/- with one or two sureties in the like amount;
- (ii) He shall also place on record on affidavit address at which he shall be always available during pendency of this appeal with his contact number;
- (iii) Similar details in relation to his surety/s shall also be furnished;
- (iv) He shall report on first working Monday once after interval of two months to Superintendent/Registrar of the trial Court;
- (v) Vakalatnama filed in appeal shall be kept alive and valid during pendnecy of appeal. He shall not be entitled to any fresh notice at the stage of final hearing.
- (vi) Failure to observe terms and conditions of this order shall entitle respondent to take him in custody;
- (vii) Application is accordingly allowed and disposed of.

(MRS. SWAPNA S. JOSHI, J)

(B.P.DHARMADHIKARI,J.)