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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

Cr. Bail Application No. 276 of 2020

Vishwajit @ Gabrya Namdev Mane ... Applicant
Vs.
State of Maharashtra ... Respondent

Mrs. Tanvi G. Tapkire, for the Applicant.

Mr. Y. M. Nakhwa, APP for the Respondent - State.

CORAM : C. V. BHADANG, J.

DATE : SEPTEMBER 14, 2020
(Through video conferencing)

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PC :

1. Heard the learned counsel for the parties for some time.
2. Mrs. Tapkire, the learned counsel for the applicant points out that the charge-sheet is already filed. The learned Sessions Judge has refused to release the applicant on bail in an application, which was filed after filing of the charge-sheet. She points out that this is a case of single blow, that too, on non-vital part of the body, which would indicate that there was no intention to kill the deceased.
3. The learned Additional Public Prosecutor submits that there are eye witnesses to the incident, including a child witness, and the offence is serious.

3. On hearing the learned counsel for the parties, I find that there are at least two observations in the order of the learned Sessions Judge dated 25th November, 2019, which are not correct. The points framed by the learned Sessions Judge would indicate that perhaps the Sessions Judge was under the impression that he was entertaining an application for anticipatory bail when it was a regular bail. Secondly, para 7 of the impugned order would show that the learned Sessions Judge was under misconception that the charge-sheet is not filed, when in fact, the charge-sheet was filed on 21st August, 2019 i.e. much prior to the passing of the order dated 25th November, 2019.

4. In such circumstances, the learned counsel for the applicant, on instructions, seeks leave to withdraw the application with liberty to approach the learned Sessions Judge afresh.

5. In such circumstances, the following order is passed.

ORDER

(i) The criminal application is disposed of as withdrawn, with liberty, as prayed.

- (ii) If the applicant approaches the learned Sessions Judge afresh for bail, the learned Sessions Judge shall decide the same on its own merits and in accordance with law, without being influenced by the observations made in order dated 25th November, 2019.
- (iii) The learned Sessions Judge shall decide the said application for bail as expeditiously as possible, and preferably within three weeks from the filing of such an application.

C. V. BHADANG, J.