

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

Amk

CRIMINAL APPEAL NO. 1094 OF 2019

Rohit Subhash Singh .. Appellant
Vs.
The State of Maharashtra & Ors. .. Respondents

Mr. Raviraj R. Paramane for the Appellant.
Mr. Prakash N. Wagh for Respondent No.3.
Mr. Sooraj S. Hulke, APP for the Respondent-State.
API, S. R. Shaikh, Nerul Police Station present.

**CORAM : B. P. DHARMADHIKARI, A.C.J. &
N.R. BORKAR, J.**
DATE : 28th FEBRUARY, 2020.

ORAL JUDGMENT (*Per N. R. Borkar, J.*)

1. This Appeal takes an exception to the order passed by the learned Additional Sessions Judge, Thane below Exhibit 10 in Sessions Case No. 204 of 2019. By the order impugned, learned Additional Sessions Judge, Thane, rejected the bail application filed by the appellant.
2. Admit. Heard finally with consent.
3. The Appellant herein came to be arrested in Crime No. 114 of 2019 registered by Nerul Police Station for the offences punishable under Sections 302, 307, 143, 146, 147, 148, 149 of the IPC, Section 37(1)(3) read with 135 of the Maharashtra Police Act and Sections 3(1)

(r), 3(2)(v) and 3(2)(va) of the SC & ST (Prevention of Atrocities) Amendment Act, 2015.

4. It is the case of the prosecution that on 08.03.2019 the present Appellant along with other co-accused formed an unlawful assembly and assaulted the deceased Rajesh Ingle and injured Vaibhav Sadavar by knife on account of an old enmity.

5. We have heard the learned Counsel for the Appellant and learned APP for the State so also learned Counsel for Respondent Nos.2 & 3.

6. The learned Counsel for the Appellant submitted that the injured Vaibhav in his statement dated 9th March 2019 has not attributed any role to the present Appellant in the crime in question. It is submitted that the injured for the first time in his supplementary statement dated 12th March 2019 stated that present appellant assaulted him and the deceased by fist and kick blows. It is further submitted that there is no other incriminating evidence against the appellant except the supplementary statement of the injured. It is submitted that the investigation is over and charge-sheet is filed. It is submitted that the Appellant is permanent resident of Nerul, Navi Mumbai and not likely to abscond if released on bail.

7. On the other hand, learned APP as well as learned Counsel for Respondent Nos.2 & 3 submitted that the Appellant is involved in the serious offence of murder. It is submitted that there are eye-witnesses in

the matter. It is further submitted that if the Appellant is released on bail, then possibility of threatening the witnesses cannot be ruled out as respondent Nos.2 and 3 are already receiving threats from accused persons. It is submitted that the injured has specifically named the present Appellant in his supplementary statement as one of the assailants. Accordingly, they submit that the Appeal be rejected.

8. We have perused the charge-sheet. Admittedly, the injured has not attributed any role in the incident to the present Appellant in his statement dated 09.03.2019. Even other two eye-witnesses whose statements came to be recorded after four days of incident have not attributed any major role to the present appellant in the incident. Offences under the Atrocities Act are invoked just because the deceased was from Scheduled Caste category.

9. Considering the above facts and circumstances and as the investigation is over and charge-sheet has been filed, we are inclined to release the Appellant on bail. In the result, we pass following order:

(a) Appeal is allowed;

(b) The appellant shall be released on bail on execution of personal bond in the sum of Rs.20,000/- before the trial court for proper behaviour and for remaining present on due dates before the Court in the present matter with two independent sureties in the like amount;

(c) He shall give address at which he shall always be available during the pendency of the trial along with his contact numbers;

(d) Similar details in relation to his sureties shall also be furnished;

(e) He shall not in any way directly or indirectly attempt to contact or pressurize either complainant or any of the witnesses in the matter;

(f) He shall keep Vakalatnama of his advocate alive and valid till the trial is finally decided by Sessions Court;

(g) His failure to observe any of the terms and conditions shall entitle the respondent State to take him in custody forthwith.

[N. R. BORKAR, J.]

[ACTING CHIEF JUSTICE]

Arjun
M.
Kadam

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by Arjun M.
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