

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

**CRIMINAL APPLICATION NO.1465 OF 2019
IN
CRIMINAL APPEAL NO.416 OF 2016**

Sachin Chandrakant Dangat

...Applicant

vs.

The State of Maharashtra

...Respondent

**AND
CRIMINAL APPEAL NO.415 OF 2016
AND
CRIMINAL APPEAL NO.417 OF 2016**

Mr.Ponda a/w S, Pasbola, Praful Soni, Rekha Karande for the Applicant.
Mr. K. V. Saste, APP for the Respondent/State.

**CORAM : B. P. DHARMADHIKARI &
N. R. BORKAR, JJ.
DATE : 8/1/2020.**

PC.:

. Heard at some length. Perused order of this Court dated 15/2/2018 in Criminal Application No.1131/2016 releasing accused No.2 Ankush Pawar. Also perused orders passed by Hon'ble Apex Court on Bail Applications of accused Nos.3, 6 and 7.

2. According to applicant accused No.5, PW-1-Jafar Shaikh and PW-10-Banu Shaikh being relatives, have posed themselves as eye witnesses and are exposed in cross examination. To support that they are not the eye witnesses, evidence of DW-1-Dadasaheb Jagtap is also relied

upon. Dadasaheb has been examined in defence to show that accused No.2 Ankush could not have been present at the alleged spot of offence.

3. Learned APP has however submitted that presence of accused No.5 in the Court premises is admitted. He has heard evidence in the matter till 2.00 p.m. in the Court hall and thereafter he gave effect to the crime at a place which is hardly 300 meters away. According to him in this situation, the evidence of eye witnesses cannot be discarded.

4. Insofar as evidence of PW-10 is concerned, she is not named as witness in FIR. Her statement under section 161 of Cr.P.C. has been recorded 6 days after the incident. In cross examination her deposition in chief is shown to be contrary to portion marked "E" in her statement. If portion marked "E" is accepted, it is apparent that she has not seen the incident.

5. As far as PW-1 is concerned, he also could not explain why he was present at the spot from where he has witnessed the incident. He is accused No.1 in the matter in the other attack in the Court premises which has taken place at about same time. DW-1-Dadasaheb Jagtap is the witness of prosecution to support it. That trial is still going on.

6. Perusal of evidence of Dr. Shinde who has conducted post mortem, particularly paragraph 15, also casts some doubt upon the mode and manner in which present offence alleged to have taken place.

7. In this situation, we find applicant/accused No.5 entitled to be released on bail on following terms and conditions:

(a) The applicant shall execute 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;

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

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

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

(e) He shall keep vakalatnama of his advocate alive and valid till the appeal is finally decided by this Court and shall not be entitled to any fresh notice at the stage of final hearing;

(f) He shall report to the Superintendent/Registrar of Sessions Court, Pune on first working Monday in every two months as a condition of his release;

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

(h) The Application is accordingly allowed and disposed of.

(N. R. BORKAR, J.)

(B. P. DHARMADHIKARI, J.)