

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

LD-VC APPEAL NO. 107/2020

Suraj C. Rathod & anr.

..VS..

State of Maharashtra & anr.

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri A.V. Bobde, Advocate for the appellant(s)
Shri T.A. Mirza, APP for the respondent no. 1

CORAM : Z.A.HAQ & AVINASH G. GHAROTE, JJ.
DATED : 18/08/2020

Heard Shri A.V. Bobde, learned advocate for the appellants and Shri T.A. Mirza, learned APP for the respondent no. 1 – State.

The appellants – accused have challenged the order passed by the Sessions Court by which the application filed by the appellants under Section 439 of the Code of Criminal Procedure is rejected. The appellants have prayed that the respondent no. 1 – State be directed to release them on bail.

The submission on behalf of the appellants – accused is that the investigation is complete, charge-sheet is filed and 8 co-accused are released on bail and nothing adverse is reported after their release. It is submitted that in these circumstances, no fruitful purpose is being served by keeping the appellants – accused (aged about 22 years and 21 years) in jail.

With the assistance of learned advocate for the appellants and learned APP, we have examined the material

placed on record.

Out of 8 co-accused who are released on bail, 5 are women and obviously the circumstances while considering their applications for grant of bail were different. The other 3 co-accused who are released on bail are Yash Lakhani, Vijay Chouhan and Ramesh Solanki. We have gone through the orders passed by the Sessions Court granting bail to Yash, Vijay and Ramesh. To say the least, the Sessions Court has dealt with the issue of grant of bail to these 3 co-accused i.e. Yash, Vijay and Ramesh very lightly and has directed their release on bail observing that no overt act is attributed to them.

Learned APP has pointed out that a young man (aged about 21 years) was dragged from his house and was brutally assaulted which is apparent from the post mortem report which shows that there were 28 injuries on the body of victim. The Investigating Agency alleges that even after killing the victim, his body was dragged on road. According to the Investigating Agency, the incident occurred as the assaulting party was against the love affair between the victim and Pinky Solanki (member of family of the accused). From the record, it appears that iron rod is seized from the appellant no. 1 – Suraj Rathod and wooden rod is seized from the appellant no. 2 – Mikkhan Salad.

Considering the nature of incident and accusations, we are not inclined to consider the appeal filed by the appellants. As already recorded, out of 8 co-accused who are released on bail, 5 are women and in case of other 3 co-accused i.e. Yash, Vijay and Ramesh, the matter is dealt with by the Sessions Court very casually. The orders directing release of the 3 co-accused i.e. Yash, Vijay and Ramesh are

dated 27/11/2018. We express our displeasure and record that we are not agreeing with the observations made by learned Sessions Judge while passing the orders directing release of the co-accused i.e. Yash, Vijay and Ramesh on bail, however, as they are already released and are on bail for more than about 20 months, we are not issuing notice to those 3 co-accused for cancellation of bail.

Learned advocate for the appellants – accused submitted that the trial has not commenced and the Investigating Agency perhaps is not serious in the matter of ensuring expeditious trial. During the course of hearing, it is submitted that some co-accused are still not arrested and are shown as absconding.

The Code of Criminal Procedure takes care of all such situations and even if some co-accused are absconding, it does not disable the Sessions Court from taking appropriate steps in the matter.

We find that the Sessions Court has not committed any error by rejecting the application filed by the appellants – accused.

Hence, the criminal appeal is **dismissed**.

JUDGE

JUDGE