

IN THE HIGH COURT OF JUDICATURE OF BOMBAY  
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 2498 OF 2020  
IN  
CRIMINAL APPLICATION NO. 6172 OF 2014  
WITH  
CRIMINAL APPLICATION NO. 3088 OF 2015

Rohidas S/o. Ramdas Rathod ... Applicant

Versus

The State of Maharashtra .... Respondents

.....

Shri. D. K. Dagadkhair, Advocate for the applicant  
Shri. S. G. Sangle, APP for respondent/State  
Shri. B. N. Palve, Advocate for respondent No. 2 in Cri. Appeal No.  
67/18

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WITH  
CRIMINAL APPLICATION NO. 1143 OF 2020  
IN  
CRIMINAL APPEAL NO. 67 OF 2018

Rohidas S/o. Ramdas Rathod ... Applicant

Versus

The State of Maharashtra .... Respondents

.....

Shri. D. K. Dagadkhair, Advocate for the applicant  
Shri. S. G. Sangle, APP for respondent/State  
Shri. B. N. Palve, Advocate for respondent No. 2 in Cri. Appeal No.  
67/18

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**CORAM : RAVINDRA V. GHUGE  
AND  
B. U. DEBADWAR, JJ**

**DATE : 15.2.2021**

**PER COURT :-**

1. By this application, the applicant (original accused no.2) in Sessions Case No. 361 of 2014, leading to his conviction by Judgment dated 17.01.2018, prays for withdrawal of the amount of Rs. 50,000/- that he had deposited before the trial Court while securing bail from this court as an under-trial.

2. Contention of the learned Advocate for the applicant is that, now that he has been convicted by the trial Court, the amount of Rs. 50,000/- be returned to the applicant without conditions. He is presently serving out his sentence and his appeal, challenging his conviction, bearing No. 67 of 2018 has been admitted by this Court.

3. Criminal Application No. 292 of 2018 filed by all the accused, was partly allowed by order dated 30.06.2018, vide which, accused no. 1 – Somnath Rohidas Rathod and accused no. 3 – Tulsabai Rohidas Rathod were released on bail and substantive part of the sentence to their extent was suspended till the disposal of the appeal. The application of the present applicant – Rohidas Ramdas Rathod has been rejected.

4. The learned Prosecutor has pointed out to us that the first order granting bail to applicant Rohidas by the learned Single Judge of this Court was passed on 27.11.2014 in Criminal Application No. 6172 of 2014. Vide the said order, the learned Judge took into account that the victim had suffered a fracture and bleeding injuries on his face and other parts of the body and in the said attack, he had permanently lost his left eye. A petty quarrel had taken place between the victim and the accused resulting in the victim losing one eye and by providence, his vision in the second eye was saved. This court therefore concluded that “in view of the facts of the present case, to take care of the interest of the injured, this Court holds that the applicant needs to deposit Rs. 1.00 lakh in the crime for getting the bail. That amount can be given to the injured by way of compensation, if the applicant is convicted in the offence by the concerned Court. In addition to that, he can give bail bond to some extent.”

5. The learned Prosecutor then points out that, Rohidas moved a Criminal Application No. 3088 of 2015 before a Coordinate Bench of this Court and vide order dated 22.06.2015, appreciating the difficulty of Rohidas in depositing Rs. 1.00 lakh, this Court reduced the amount to Rs. 50,000/- keeping in view the judgment of

the Hon'ble Apex Court in **Sandeep Jain Vs. National Capital Territory of Delhi**, (2000) 2 SCC 66. The direction of this court of granting the amount of compensation to the victim if the accused are convicted, has not been altered by the subsequent order.

6. As such, we are of the view that, this amount cannot be returned to the applicant. It ought to have been granted to the victim at the time of delivering the judgment convicting these accused persons, by the trial Court. It appears that the trial Court lost sight of the directions of this Court set out in paragraph no. 4 of its order dated 27.11.2014.

7. In view of the above, this application is rejected.

8. As such, the victim - Lahu Uttam Chavan, to whom the said amount was supposed to be granted and which was lost sight of by the trial Court, would be at liberty to withdraw the said amount from this Court by tendering an affidavit/undertaking that in the event the accused are acquitted in the appeal before this court, he would redeposit the said amount in this court within ten (10) weeks from the date of such judgment.

9. The learned Advocate appearing on behalf of the victim, respondent no. 2 in the appeal, Ankush s/o Uttam Chauhan, submits that respondent no. 2 would file an affidavit / undertaking as directed by this Court and withdraw the said amount from this Court by following the due procedure as is laid down in law.

**( B. U. DEBADWAR )**  
**JUDGE**

**( RAVINDRA V. GHUGE )**  
**JUDGE**

SG Punde