

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.2679 OF 2021

Shatrukan Suresh Mhatre

Applicant

versus

The State of Maharashtra

Respondent

WITH

INTERIM APPLICATION NO.2214 OF 2021

Datta Ananta Rane

Intervenor

In the matter between :

Shatrukan Suresh Mhatre

Applicant

versus

The State of Maharashtra

Respondent

Mr.Yash K. Dewal, Advocate, for applicant.

Mr.Y.Y.Dabake, APP, for State.

Mr.Sanjay Kulkarni, Advovate, for intervenor.

API Dhananjay P. Ganage, Hill Line Police Station, Ulhas Nagar Police Station, present.

CORAM : PRAKASH D. NAIK, J.

DATE : 30th September 2021

PC :

1. This is an application for bail in CR No.I-55 of 2018 registered with Hill Line Police Station for offences under Sections 302, 326, 324, 143, 147 and 149 of Indian Penal Code and under Sections 37(1) and 135 of Bombay Police Act.

2. The FIR was lodged on 3rd March 2018. There was a quarrel on account of flow of drainage water. One Madhuri Rane and other family members of her house inquired with accused with regards to flow of water. The accused began shouting at Madhuri Rane,

deceased intervened. Jitin, Suresh and applicant came to the spot. Jitin and Suresh were carrying wooden log and applicant was having iron rod. Ramesh Mhatre declared that nobody from Rane family (family of first informant) should be left alive. Accused Darshan brought iron spade. Ramesh came with iron rod and Pramod brought an axe. Pramod struck Dnyandeo with an axe on his stomach, right eye and forehead. He also assaulted Jignu and Nana. Gurunath Rane along with other relatives tried to intervene. Applicant assaulted Jignu Rane on his forehead with a rod. He also assaulted Nana. Pramod assaulted with an axe. Gurunath Rane was assaulted by accused nos.1 and 3 with a wooden stick on his hand, back and head. Pramod assaulted Nana Rane with an axe on his back. Accused fled away from the spot of incident. Injured Dnyandeo Rane succumbed to the injuries. Statements of the witnesses were recorded. On completing investigation charge sheet was filed.

3. Previous application of the applicant was rejected by this Court vide order dated 25th February 2019 on merits. Thereafter another application was preferred by applicant, which was withdrawn since the Court was not inclined to grant bail vide order dated 28th February 2020.

4. Learned advocate for applicant submitted that applicant is in custody for a period of about three and half years. There is no progress in trial. Charge is not yet framed. The applicant has been falsely implicated in this case. There are discrepancies in evidence. The applicant was not present at the scene of offence. He was in the bank at the relevant time. The CCTV footage support the claim of

applicant. The applicant had received a call on his phone while he was at the bank at the relevant time and the CDR shows the location of applicant at another place and not at the place of incident. There are several other discrepancies in the evidence.

5. Learned APP submit that two previous applications were rejected by this Court. There is no change in circumstance. There is no ground for review of previous orders passed by this Court. On the instructions of officer who is present in Court, it is submitted that prosecution proposes to examine about 12 to 15 witnesses. The charge would be framed when the accused remain present before the Court. Some of the accused are on bail. Four accused are in custody.

6. Learned counsel for intervenor submits that no case is made out for reconsidering the prayer for bail. Previous applications were rejected on merits by assigning reasons. He has taken instructions from Special Public Prosecutor appearing in Trial Court and he has informed that next date before the Trial Court is 20th October 2021. The prosecution proposes to examine about 12 to 15 witnesses. The accused are delaying trial. Some of them had not remained present before the Court and hence it is difficult for the Court to frame charge.

7. I have perused the previous orders passed by me. The submissions advanced on behalf of applicant were considered and the applications were rejected. Learned counsel for applicant has urged that there are discrepancies in the evidence which could not be pointed out earlier. I do not find nay new ground to entertain this

application on merits. The contention about CCTV footage and CDR will have to be considered at the stage of trial. However, it is relevant to note that applicant is in custody for three and half years and the charge is not yet framed. The prosecution has contended that accused are not co-operating with investigation. It is noted that some of the accused are on bail and some of them are in custody. In the light of aforesaid circumstances, bail cannot be granted to the applicant, but the trial can be expedited. In view of the submission that prosecution intends to examine about 12 to 15 witnesses, it is expected that both the sides should co-operate with Trial Court in proceeding with trial. It is expected that the accused will remain present before Court. Those who are in custody, may be produced diligently before the Court and accused who are on bail, are expected to remain present before the Court. Hence, I pass following order :

ORDER

- (i) Bail Application is rejected;
- (ii) Trial is expedited;
- (iii) The Trial Court is requested to complete trial within six months from the date of receipt of copy of this order;
- (iv) The accused who are in custody and who are on bail and the prosecution, shall co-operate with the Trial Court in concluding the trial expeditiously;
- (v) The prosecution shall keep all the witnesses ready to enable the Trial Court to conclude trial expeditiously;
- (vi) In the event trial is not concluded within six months, the applicant will be at liberty to file fresh application for bail;
- (vii) The accused shall not delay trial;
- (viii) Interim Application is disposed of.

(PRAKASH D. NAIK, J.)