

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO.3535 OF 2019

Nikhil Raju Sarode .. Applicant

Vs.

The State of Maharashtra .. Respondent

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Mr. Satyavrat Joshi for the Applicant.

Mr. Y.Y. Dabake, A.P.P. for the State.

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CORAM : SMT. BHARATI DANGRE, J.

DATED : 17TH MARCH, 2021.

P.C:-

1. In connection with F.I.R. No.502 of 2014 registered with Pimpri Police Station, Pune, the Applicant was arrested on 07/11/2014 and since then, he is incarcerated. The said C.R. invokes Sections 302, 143, 147, 148, 149 of the IPC read with Section 4(25) of the Arms Act and Section 37(1) read with Section 135 of the Mumbai Police Act. Charge-sheet has been filed invoking the same offences as were mentioned in the FIR. The charge-sheet indicts 7 accused persons and the present Applicant is implicated as Accused No.1.

2. Mr. Joshi, learned counsel appearing for the Applicant rests his case on the ground of parity when two co-accused Mahesh and Arun have been released on bail by the Sessions Court.

3. I have perused the orders passed on the Applications of the two co-accused. As far as co-accused Mahesh is concerned, the court has recorded that the investigation is complete and there is no recovery of any weapon from the said Applicant and another ground cited is that a co-accused with an identical role being attributed, has been released on bail. As far as Arun is concerned, he has been released on bail by order dated 13/02/2015.

4. In my considered opinion, the Applicant is not entitled to draw any advantage from the said order. Perusal of the charge-sheet reflects that there are four eye-witnesses, who have narrated about the incident in their statements under Section 161 of the Cr.P.C. and the said witnesses being Chaya, Sujatha, Shekhar, Ravi and, as far as the present Applicant is concerned, all eye-witnesses are unequivocal, when they state that the deceased was seated in a chair and he was being assaulted by all accused persons and the present Applicant was armed with a scythe and assaulting the deceased. He was found lying in a pool of blood in injured condition, on the assault.

5. The postmortem report in column No.17 reveals about 24 injuries, out of which, 23 are incised wounds. Column 19 refers to fracture of skull right frontal bone; right parietal bone, right temporal bone, whole occipital bone, left parietal bone corresponding to injuries (1), (2), (4) and (5) of column No.17. The cause of death has been opined to be on account of head injury. In the light of the said postmortem report, it is apparent that the deceased was assaulted brutally with sharp weapons and therefore, the incised wounds. The Applicant has been pin pointed as the assailant who had attacked the deceased by means of scythe in his hand.

6. In such circumstances, in contrast to Mahesh, who has been named by witnesses as carrying bamboo in his hand barring one witness, who has stated that he has also armed with scythe, and Arun unequivocally assaulting the deceased, in my opinion, the Applicant is not entitled to claim parity with the co-accused. The Application, therefore, deserves to be rejected.

7. Learned counsel for the Applicant is perfectly justified in praying for expeditious culmination of the trial since he has been incarcerated from 07/11/2014 and it is more than six years that the trial has not been concluded. Learned A.P.P. states that the charges have been framed and the case is fixed for evidence. However, no witness has been so far examined. In such circumstances, since expeditious disposal of the case is a

inherent right vested in an accused person apart from the fact that he expects fair trial, the trial deserves to be expedited and learned Additional Sessions Judge before whom Sessions Case No.136 of 2015 is pending is requested to expeditiously conclude the trial and, preferably within one year from today.

8. With the aforesaid directions, the Application is disposed of.

SMT. BHARATI DANGRE, J.