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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.327 OF 2022

Navnath Hanumant Raut

...Applicant

vs.

The State of Maharashtra

...Respondent

....

Mr. Rupesh A. Zade, for the Applicant.

Mr. M. G. Patil, APP, for Respondent/State.

Mr. S.D. Dhotare, P.I., Indapur Police Station, Pune Gramin, present.

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CORAM : ANUJA PRABHUDESSAI, J.

DATE : 24 NOVEMBER 2022

P.C. :

This is an application under Section 439 of Cr.P.C. filed by the aforesaid Applicant, who is facing trial in Sessions Case No.137 of 2021, pending on the file of Additional Sessions Judge, Baramati for offences punishable under Sections 302, 307, 342 read with Section 34 of Indian Penal Code.

2. The case of the prosecution is that the deceased Shivraj Kantilal Hegde had sold his agricultural land to the co-accused Somnath. It is alleged that the deceased had agreed to repay the money, upon which reconveyance was to be executed between the deceased and

the co-accused. It is stated that the present Applicant also had a grudge against the deceased, as he had married the ex-wife of the deceased. It is alleged that on 7 June 2021, while the deceased was filling petrol in his motor-cycle, the Applicant and the co-accused accosted him and forced him to board a four wheeler at the point of pistol. He was confined in a room.

On 20 June 2021, the Applicant and the co-accused took the deceased to Suma Junction Forest Indapur, Pune and poured petrol over him, set him ablaze and fled away from the spot. It is stated that the deceased extinguished the fire by rolling on the ground and later with the assistance of the passersby he called his father. He was shifted to Civil Hospital, Solapur. His statement was recorded by the Police Inspector, Sadar Bazar Police Station, Solapur City in the presence of the Medical Officer. Pursuant to the said statement, Crime No.590 of 2021 came to be registered against the Applicant and the co-accused for an offence punishable under Section 307 of Indian Penal Code. The deceased succumbed to the injuries, pursuant to which Section 302 came to be added.

3. The Applicant is in custody since 20 June 2021. Learned Counsel for the Applicant states that the co-accused, against whom similar accusations are made, has been released on bail and that the Applicant is entitled for bail on the principle of parity.

4. I have perused the records and considered the submissions advanced by learned Counsel for the Applicant and learned APP for the State.

5. The records prima facie reveal that the case is based mainly on the dying declaration. This Court (Coram: N.J. Jamadar, J.) has observed in order dated 29 June 2022 in Bail Application No.4293 of 2021 that prima facie a substantial part of the assertion of the dying declaration is rendered incorrect as per the material collected by the Investigating Agency itself. Apart from the dying declaration, there is no material to connect the Applicant with the crime. The boys, who had arrived at the spot, had not seen the Applicant or the co-accused at the place of the incident. With these observations, the co-accused, who is similarly placed, has been released on bail. The role attributed to the Applicant is similar. Hence, the Applicant is also entitled for bail on the principle of parity.

6. Under the circumstances and in view of the observations above, the application is allowed on the following terms and conditions:

- (i) The Applicant who is facing trial in Sessions Case No.137 of 2021, arising from C.R. No.590 of 2021 registered with Indapur Police Station, is ordered to be released on bail on furnishing P.R. bond in the sum of Rs.25,000/- with one or two sureties in the like amount;

- (ii) The Applicant shall report to Indapur Police Station, Pune once every three months for the period of two years from today or till completion of the trial, whichever is earlier;
- (iii) The Applicant shall not tamper with the prosecution evidence and/or give threat or inducement to any of the prosecution witnesses;
- (iv) The Applicant shall keep the Trial Court informed of his current address and mobile/contact number and/or change of residence or mobile details, if any, from time to time;
- (v) The Applicant shall co-operate with the conduct of the trial and attend the trial Court on all dates, unless exempted;
- (vi) By way of abundant caution, it is clarified that the observations made hereinabove are confined to the consideration of the entitlement for bail and they may not be construed as an expression of opinion on the guilt or otherwise of the Applicant and the co-accused.

7. Bail Application stands disposed of in above terms.

(ANUJA PRABHUDESSAI, J.)