

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

INTERIM APPLICATION NO.438 OF 2022
IN
CRIMINAL APPEAL NO.792 OF 2021

Sunny Vitthal Bhangare

.... Applicant
(Orig. Accused No.3)

versus

The State of Maharashtra

... Respondent

.....

- Mr. Piyush Toshnival a/w Mr.Amit i/b. Mr.Aniket Nikam, Advocate for Applicant.
- Mr. Y. M. Nakhwa, APP for State/Respondent.

CORAM : S. S. SHINDE &
SARANG V. KOTWAL, JJ.
DATE : 24th MARCH, 2022.

PC. :

1. This is an Application preferred by the original accused No.3 Sunny Vitthal Bhangare for his release on bail pending Appeal.

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2. Heard learned counsel Mr. Piyush Toshnival, for the Applicant and Mr.Y.M. Nakhwa, learned APP for the State.

3. Learned counsel for the Applicant invited our attention to the order passed in Interim Application No.2340 of 2021 and Interim Application No.93 of 2022 in Criminal Appeal No.792 of 2021 dated 08/12/2021 and 12/01/2022 filed by accused No.4 Shobha Vitthal Bhangare and accused No.5 Monika Vitthal Bhangare respectively who are granted bail during pendency of the Appeal.
4. Learned counsel for the Applicant submitted that the role attributed to the present Applicant is exactly the same and on the ground of parity, he deserves to be released on bail.
5. Learned APP though opposed this application, could not point out differentiating features between the roles of the Applicant and the co-accused who are granted bail during the pendency of this Appeal.
6. With the assistance of both the learned counsel, we have perused the evidence of the eyewitnesses. The prosecution

story is based on evidence of eyewitnesses. PW.1 Vikas Baburao Sawant, is the brother of the deceased Ganesh. While describing the incident, he has stated that Shobha, Monika and the present Applicant had held hands of the deceased Ganesh and accused No.2 Ganesh Bhangare stabbed the deceased on his chest. The accused Vitthal Bhangare assaulted the deceased with rod on his head. The present Applicant, Monika and Shobha assaulted the deceased with pieces of tiles on his head.

7. P.W.6 Baburao Sukhdev Sawant was the father of the deceased Ganesh. While describing the incident, he has stated that accused No.2 Ganesh Bhangare held the deceased and gave blow of knife on his chest. Vitthal Bhangare assaulted him on his head with iron rod. The present Applicant, Monika and Shobha assaulted the deceased on his head with tiles. He has not stated that the Applicant had held the deceased when the other accused Ganesh Bhangare stabbed the deceased.

8. P.W.10 Nilesh Bharat Bhagat has described that Vitthal Bhangare stabbed the deceased on the chest with knife and the family members of Vitthal had caught hold of the deceased. He has not specifically named the present Applicant.
9. P.W.14 Dnyaneshwar has deposed that two ladies and one gent had held the deceased and accused Ganesh Bhangare stabbed him and Vitthal Bhangare had assaulted the deceased with iron rod.
10. Thus, in all these depositions, the role ascribed to Shobha, Monika and the present Applicant are exactly the same. By the previous orders, Shobha and Monika are granted bail. Therefore on the ground of parity, the Applicant also deserves the same treatment. The Applicant was on bail during the trial and he has not misused the liberty. Therefore this application can be allowed.
11. Hence, the following order is passed:

ORDER

- (i) The Application is allowed.
- (ii) During the pendency and final hearing of Criminal Appeal No.792 of 2021, the Applicant is directed to be released on bail on his furnishing PR bond in the sum of Rs.30,000/- (Rupees Thirty Thousand Only) with one or two sureties in the like amount.
- (iii) Application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)

(S. S. SHINDE, J.)