

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

INTERIM APPLICATION NO. 1625 OF 2021
IN
CRIMINAL APPEAL NO. 516 OF 2021

Ankush Daji Chavan : Applicant

Versus

The State Of Maharashtra : Respondent

Mr. Dhananjayrao D. Rananaware a/w Mr. Manjeet Lotankar for
Applicant/Appellant.

Mr. V. B. Konde-Deshmukh, APP for respondent/State.

CORAM : S. S. SHINDE,
SARANG V. KOTWAL, JJ

DATE : 28th APRIL, 2022

P.C.

1. Heard the learned counsel appearing for the applicant/appellant and the learned APP appearing for respondent/State.

2. The learned counsel appearing for the applicant/appellant submits that the alleged eye witnesses have turned hostile and did not support the prosecution case. The alleged dying declarations are not proved by the prosecution, since there was no endorsement of medical officer on the dying declarations. It is submitted that the contents of the dying declarations would make it clear that there was no motive or intention on the part of the appellant to commit the said offence. The declarant himself has not stated that why the appellant has poured kerosene on his person and set him ablaze. At the relevant time, the appellant was suffering from schizophrenia and therefore, he

can seek protection under section 84 of the Indian Penal Code. He submitted that Balasaheb Bhosale survived for considerable period and after his discharge from the hospital he died. Therefore, the appellant is entitled to be released on bail during the pendency of the appeal and his substantial sentence awarded by the order of trial Court may be suspended.

3. Learned APP has invited our attention to the notes of evidence and submits that the incident had taken in public place and the eye witness, who were present at the spot of incident, have seen Balasaheb Bhosale in burning conditions. It is submitted that the dying declarations have been duly proved by the prosecution and therefore, the findings recorded by the trial Court are legally sustainable. He opposed the application.

4. We have considered the rival contentions of the learned counsel for the parties. We have also perused the evidence of the witnesses and in particular dying declarations which have been recorded by the PW-8 and PW-10. We are of the opinion that the dying declarations are consistent with each other clearly implicating the appellant his role in pouring kerosene on the person of Balasaheb Bhosale and setting him ablaze. It is important to note that, the incident had taken place at public place in front of the Gram Panchayat of the concerned village. One of the dying declaration is recorded by the doctor himself and therefore, the contention of the learned counsel appearing for the appellant that there was no endorsement of the doctor that

Balasaheb Bhosale was not oriented and in a fit mental condition to give dying declarations loses its importance. The learned Judge has not believed the defence witness regarding the defence that the applicant was suffering from schizophrenia.

5. For the reasons upon, we are not inclined to entertain the application. Hence, the application stands rejected.

6. It is made clear that the observations made herein above are prima facie in nature and are confined to the adjudication of the present application only.

7. considering the length of imprisonment and period undergone by the appellant in jail we deem it appropriate to direct the Registry to include the appeal for final hearing in the week commencing from July 2022.

8. Stand over to 04.07.2022.

[SARANG V. KOTWAL, J]

[S. S. SHINDE , J]