

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
INTERIM APPLICATION NO. 3110 OF 2022
IN
CRIMINAL APPEAL NO. 321 OF 2019

Nitin Dattatraya Ranzhunjar

...Applicant/Appellant

V/s.

The State Of Maharashtra

...Respondent

Ms. Anjali Patil for Applicant/Appellant.

Mr. Ajay Patil, A.P.P. for the Respondent-State.

CORAM : A. S. GADKARI AND
PRAKASH D.NAIK, JJ.

DATE : 4th JANUARY, 2023.

PC:-

. This is an Application for suspension of sentence and releasing the Applicant/Appellant on bail pending Appeal.

2. Applicant is Original Accused No.3. Applicant has been convicted under Section 302 read with Section 34 of Indian Penal Code by the learned Additional Sessions Judge, Pune in Sessions Case No.348 of 2015 by its Judgment and Order dated 07.12.2018.

3. The date and time of incident is on 05.01.2015 at about 6.20 p.m.

It is the prosecution case that, on the date and time of incident, deceased Sandip Navaskar was proceeding from his motorcycle towards his home via Anand Nagar. Ms. Vrushali Nivangune (PW-2) and Ms. Sonam

Kadolkar (PW-3) were pillion riders on the said motorcycle. As the road adjacent to the canal was rough, Sandip had slowdown his speed. PW-2 was sitting in between PW-3 and deceased Sandip Navaskar on the said motorcycle. That, when their motorcycle was passing through the road adjacent to the canal, one person aged about 25 to 28 years all of a sudden came in front of their motorcycle; caught hold the collar of Sandip and dragged him down from the vehicle. Due to the said act, all the said three persons fell down on earth. The said boy, who had caught Sandip started assaulting him with sickle on his head. Immediately 4 to 5 other boys, who had concealed themselves in the nearby bushes appeared there and also assaulted Sandip with sickle and stones. Sandip got unconscious at the scene of offence. Ms. Sonam Kadolkar (PW-3) rushed to the house of Sandip and informed the said fact to his elder brother Manoj Navaskar (PW-1). PW-1 along with PW-3 rushed to the scene of offence and found Sandip was in an unconscious condition. All the said three witnesses took Sandip to nearby hospital. However, he was declared dead before admission.

During the course of investigation, a motor-cycle has been seized in presence of panch witnesses from the Applicant.

As noted earlier, the trial Court by its impugned Judgment and Order has convicted the Applicant under Section 302 r/w Section 34 of Indian Penal Code.

4. Perusal of evidence prima facie indicates that, though the Applicant has been identified by PW-2 and eye witnesses to the incident as the person, who was present at the scene of offence in the identification parade, so also at the time of recording of her evidence, no specific role has been attributed to him.

5. Ms. Patil, learned Advocate for Applicant submitted that, there is no recovery of any weapon at the instance of Applicant. The motor-cycle alleged to have been seized at the instance of Appellant has no specific marking for its identification by witnesses and the said seizure is on the basis of the voluntary statement given by Applicant himself. She further submitted that, there are no antecedents at the discredit of Applicant.

6. In view thereof, during the pendency of present Appeal, the substantive sentence imposed upon Applicant can be suspended and he can be released on bail.

Hence, the following Order :

- (i) During the pendency of the present Appeal, substantive sentence imposed upon the Applicant is suspended.
- (ii) Applicant be released on bail in C.R. No.5 of 2015 registered with Sinhagad Road Police Station, Pune on his furnishing PR. bond of Rs.25,000/- with one or two local solvent sureties in the like amount.

(iii) After his release from Jail and during the pendency of Appeal, Applicant shall attend Sinhagad Road Police Station, Pune on every first Monday of the month between 10.00 a.m. and 12.00 noon initially for a period of one year and subsequently, on every first Monday of the every 3rd Month i.e. four times in a year, between 10.00 a.m. and 12.00 noon

(iv) If the Applicant commits two consecutive defaults in complying with condition condition No.(iii) above, in that event, the prosecution will be at liberty to file an Application for cancellation of bail.

7. Application is allowed in the aforesaid terms.

(PRAKASH D. NAIK, J.)

(A.S. GADKARI, J.)