

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****INTERIM APPLICATION NO.4281 OF 2023****WITH****INTERIM APPLICATION NO.4282 OF 2023****IN****CRIMINAL APPEAL NO. 1322 OF 2023**

Ramesh *aka* Milan Ramkhilawan Kori ... Applicant/Org. Accused

V/s.

The State of Maharashtra ... Respondent

Mr. Amit A. Gharte, appointed Advocate for Applicant/Appellant.

Mr. S.V. Gavand, A.P.P. for Respondent-State.

**CORAM : A. S. GADKARI AND
SHYAM C. CHANDAK, JJ.**

DATE : 15th APRIL 2024

P.C. :

(1) These are the Applications for suspension of sentence and releasing the Applicant on bail respectively, during the pendency of the Appeal.

(2) Heard Mr. Gharte, learned Advocate appointed by Legal Aid Committee and learned A.P.P. for Respondent-State. Perused record.

(3) It is the prosecution case that, the Applicant and another person, by name, Reddy Rathod, were working with Vilas K. Sathe (deceased) as drivers. Applicant and other driver Reddy Rathod were having dispute over some issues and Applicant wanted intervention of Vilas Sathe, the deceased,

for resolving the said dispute. It is alleged that, on 27th May, 2020, at about 06.00 p.m., the deceased was sitting his office. Applicant went there with a bucket, having petrol contained in it. Applicant had quarrel with the deceased and thereafter he poured the petrol on the person of the deceased and set him ablaze. The deceased ran out of the office and at that time, he had dashed with the Applicant. Ganesh (PW-2), son of the deceased and Amol (PW-3), the Supervisor of the deceased were nearby and they doused the flames by pouring water on the deceased. They took the deceased to Shraddha Hospital at Ambernath. After getting the first aid from the said hospital, he was referred to National Burn Center, Airoli, Navi Mumbai.

(4) Police Sub-Inspector Mr. Sawant (PW-7) recorded the statement of deceased and on the basis of the said statement, the present crime was registered. The deceased succumbed to burn injuries on 30th May, 2020 and thereafter, Section 302 of the Indian Penal Code, was applied to the crime.

(5) The learned Advocate appointed to represent Applicant, submitted that, the defence as propounded by him in his statement recorded under Section 313 of the Criminal Procedure Code, has not been considered by the trial Court while convicting the Applicant. He submitted that, it was the defence of the Applicant that, the deceased had stored petrol, diesel and oil in his office. It caught fire and due to which, the deceased got burnt. That, Applicant suffered burn injuries, while extinguishing fire of the deceased.

(6) Perusal of record indicates that, PW-2 Ganesh, son of the deceased in his cross examination has stated that, in his business, they required to store petrol and diesel. That, the cans containing petrol and diesel were kept in a tin shed, situated approximately at 200 fts. away from the place of actual incident. The other suggestions given by the Applicant to that effect, had been denied by PW-2 Ganesh and PW-3 Amol, the Supervisor of the deceased. Apart from the said denial of suggestions, record further indicates that, the deceased had given an oral dying declaration to PW-2 Ganesh.

(7) In view of the above, *prima facie* it appears that, there is sufficient material to indict the Applicant in present crime. The Applicant in a pre-planned manner has committed murder of deceased. No case for suspending the sentence imposed upon Applicant and enlarging him on bail is made out.

(8) Applications are accordingly dismissed.

(SHYAM C. CHANDAK, J.)

(A.S. GADKARI, J.)

RAJESH
VASANT
CHITTEWAN

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