

(2012) 12 BOM CK 0155

In the Bombay High Court

Case No : Application No. 1844 of 2012 with Application No. 621 of 2012

Pradeep Shivaji Shinare

APPELLANT

Vs

The State of Maharashtra

RESPONDENT

Date of Decision : 11-12-2012

Acts Referred:

Citation : (2013) ALLMR(Cri) 1317

Hon'ble Judges : R.C. Chavan, J

Bench : Single Bench

Advocate : S.R. Chitnis, instructed by Nitin Sejpal and Ms. Pooja Bhojne, for the Appellant; K.S. Patil for the Intervener and Ms. P.P. Shinde, APP, for the Respondent

Judgement

R.C. Chavan, J.—This is an application for bail by one Pradeep Shivaji Shinare who has been named in the FIR as one of the five persons who participated in the assault on victim Ravindra, who died as a result of the injuries sustained by him. The FIR by the victim's brother Arvind shows that he and some other family members were eye-witnesses in the incident. The dispute was initially with Bharat Shinare. On 11-5-2012, at about 6:00 p.m., the applicant and four others were hiding behind a bamboo bush. Bharat was armed with a sword. He hit Ravindra on the face with the sword. Ravindra fell down. Jaywant assaulted Ravindra on his right leg by a sickle. Tanaji and Santosh hit Ravindra by iron rods on chest and head. Bharat again gave a blow by the sword on the backside of Ravindra's head. The applicant hit the victim on the head, neck and chest with the wooden handle of a spade. The victim was pronounced dead on being taken to hospital. The notes of post-mortem examination show 16 injuries. Out of them, 15 injuries are either contused lacerated wounds, bruises, swelling or graze injuries, none of which has resulted in any fracture. The 16th injury is a contused lacerated wound in the occipital region of the size 8 cm x 1 cm bone deep resulting in compound fracture of the occipital bone. There was no internal injury on the thoracic region. The cause of death was head injury, polytrauma, haemorrhage and shock. The learned counsel for the applicant submits that

though the applicant has been named in the FIR, the role attributed to the applicant is of assaulting the victim by the wooden handle of a spade on the victim's head, leg and chest. The learned counsel points out that apart from Bharat, who allegedly hit the victim by sword on the head, Tanaji and Santosh Shinare are also alleged to have hit the victim on the head with iron rods. Yet, there was only one head injury observed in the notes of postmortem examination. He, therefore, submits that there may be a possibility of an exaggeration by the first informant's side in order to involve all members of the Shinare family. The learned counsel for the first informant and the learned APP submit that since the applicant was a part of an unlawful assembly which had indulged in causing multiple injuries to the victim, leading to the victim's death, it would not be permissible, at this stage, to find out exactly what role was played by the applicant in order to consider whether he could be admitted to bail or not. The learned counsel for the first informant and the learned APP submit that all the participants in the assault would have to be treated similarly, since they had formed an unlawful assembly. This aspect would undoubtedly be considered by the trial Judge at the trial. Considering the nature of the injuries observed by the autopsy surgeon on the victim and the assault as described in the FIR, as also considering the fact that investigation is complete and charge-sheet has already been filed and the trial is not likely to take off, the applicant be released on bail in Sessions Case No. 98 of 2012 arising out of C.R. No. I-21 of 2012 of Neral Police Station, District Raigad on his furnishing P.R. Bond in the sum of Rs. 25,000/- with one or more solvent sureties in the sum aggregating to Rs. 25,000/- on the condition that the applicant shall stay out of Raigad District till the trial is over and shall enter Raigad District only for attending the trial. He shall scrupulously keep himself away from all the prosecution witnesses. The application accordingly stands disposed of.

2. In view of the above, the intervention application also stands disposed of.