

(2013) 10 BOM CK 0059

In the Bombay High Court

Case No : Criminal Bail Application No. 1471 of 2013

Tanaji Ravji Shinare

APPELLANT

Vs

The State of Maharashtra

RESPONDENT

Date of Decision : 25-10-2013

Acts Referred:

Citation : (2014) ALLMR(Cri) 862

Hon'ble Judges : U.V. Bakre, J

Bench : Single Bench

Final Decision : Allowed

Judgement

U.V. Bakre, J.—Heard Mr. S.R. Chitnis, learned Senior Counsel for the applicant and Mr. Y. M. Nakhwa, learned APP for the State. The applicant, who has been arrested on 12.5.2012, in Crime No. I-21 of 2012 registered with Neral Police Station, District: Raigad, for the offences punishable under Sections 143, 144, 147, 148, 149 and 302 of the Indian Penal Code, has filed the present application for bail.

2. The investigation has been completed and the chargesheet has been filed and even the case has been committed to the Sessions Court and has been registered as Sessions Case No. 98 of 2012. As per report filed by the first informant namely Arvind Thombare on 11.5.2012, at about 6.00 p.m. his brother Ravindra Thombre was assaulted by the accused persons as a result of which he died. The roles attributed to various accused persons are as follows:--

Bharat Shinare assaulted with sword on face; Jaywant assaulted with Koyta on his right leg; present applicant and Santosh Shinare assaulted him with iron rods on his head and chest. Bharat Shinare again assaulted Ravindra with sword on the backside of his head; Pradip Shinare assaulted him with wooden Danda on head legs and chest.

3. There are various eye witnesses who have attributed same role to the other accused including present applicant and Santosh Shinare.

4. It is the contention of learned APP that previously the present applicant had filed Criminal Application No. 328 of 2013, and this Court by order dated 21.3.2013, had observed that there is prima facie case against present applicant and Santosh Shinare and that the case of present applicant can be distinguished from that of Santosh Shinare since at the instance of present applicant, two iron rods have been recovered. Otherwise case of said Santosh Ravji Shinare applicant No. 2 in said Criminal application No. 328 of 2013, stands on the same footing since both had allegedly assaulted the deceased with iron rods on his head and chest. The deceased had sustained serious injuries on his head and head injury is also one of the causes of his death. However, fact remains that co-accused Santosh Shinare has been released on bail.

5. In so-far as the recovery of the iron rods at the instance of present applicant is concerned, learned Senior Counsel contended that on the date of order in Criminal Application No. 328 of 2013, i.e. on 21.3.2013, report of Chemical Analyzer was not available. The said report was received subsequently on 22nd May, 2013. Perusal of the C.A. report reveals that said two iron rods are identified as Exhibits 8A and 8B. The result of analysis is that no blood could be detected on any of the said rods. It is pertinent to note that at the instance of another co-accused namely Jaywant Shinare, sickle was recovered and there is clear allegation against him as to assault on the deceased with said sickle. However, in Criminal Application No. 1146 of 2013, as per order dated 25th July, 2013, it has been observed that the Chemical Analyzer report indicates that no blood was found on the said sickle. Therefore, it was found that the use of sickle by Jaywant was not consistent with the allegations. On that ground, though there was recovery of sickle at the instance of Jaywant, however, he is released on bail. In the same manner though there is recovery of iron rods, at the instance of present applicant, as rightly contended by the learned Senior Counsel, no blood has been detected on any one of the said rods.

6. As a matter of fact co-accused namely Pradip Shinare and Narayan Shinare have also been released on bail.

7. Considering all the aspects as discussed above, I am inclined to grant bail to the present applicant.

8. In the result, application is allowed.

9. The applicant shall be released on bail in Sessions Case No. 98 of 2012 on execution of P.R. bond in the sum of Rs. 25,000/- with one solvent surety in the like amount on the condition that he shall stay out of Raigad District till the disposal of the case and that he shall enter the said District only for the purpose of attending trial, regularly, on all the dates of hearing. The applicant shall not tamper with the prosecution witnesses. Application stands disposed of accordingly.