

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION 619/2009

IN

APPEAL NO. 424/2009

Vilas Narayan Bhuvad Applicant/appellant

Vs.

State of Maharashtra Respondent

Mr.Alok Singh i/b ABC & Associate for applicant
Ms.Kejriwal,APP

**CORAM : SMT.RANJANA DESAI, &
SMT.MRIDULA BHATKAR,JJ.**

DATE : 29th JANUARY, 2010 .

P.C.

. The applicant alongwith six others was charged for offences punishable under sections 143, 147, 148, 302, 307, 323 r/w 149 of the Indian Penal Code , Section 4 r/w 25 of the Arms Act and Section 37 r/w 135 of the Bombay Police Act for committing murder of Prashant Katurde and Navnath Wadkar .By judgment and order dated 11/4/2008 learned Sessions Judge has convicted the applicant interalia for the offence punishable under section 302 r/w 149 of the India Penal Code and sentenced him to suffer imprisonment for life. The applicant's appeal has been admitted. This is his

application for bail.

2] We have heard at some length learned counsel for the applicant. He submitted that the applicant's name does not figure in F.I.R. dated 31/5/2008. It figures in the supplementary statement of the complainant. Therefore, there is possibility of concoction. Learned counsel submitted that the prosecution witnesses have not assigned specific role to the applicant. In the circumstances the applicant deserves to be released on bail. He submitted that the applicant was on bail during trial.

3] We have also heard learned A.P.P.. She opposed for grant of bail.

4] P.W.1, the complainant in his evidence stated that the applicant beat the deceased. It is true that the applicant's name does not figure in the F.I.R. , however, the complainant has in his evidence stated that he omitted to give the name of some of the accused

because he was in a frightened state . He has stated that therefore he again went to the police station and gave the names of the other accused to the police.

Considering the gravity of the incident in question in which two persons were killed prima facie this explanation appears to us to be acceptable .

5] There are two injured eye witnesses who have deposed about the applicant's involvement . Injured witness P.W.3 Sachin has stated that the applicant had a sword in his hands. He has stated that all the accused encircled him and his deceased brother Navnath and started beating them. Injured witness P.W.4 Nilesh has also stated that the applicant had an iron rod and he alongwith other accused encircled him and deceased Navnath and started beating them. There is discrepancy about the type of weapon which was in the hands of the applicant but in an incident of this type in which two persons were attacked to such an extent that they succumbed to the injuries sustained by them, it is possible that the eye witnesses who were themselves

injured would make mistake in identifying the weapon of assault. P.M. notes of both the deceased, indicate that the attack on the deceased was made by a group of persons. It is pertinent to note that the accused has been convicted under section 302 r/w 149 of the Indian Penal Code .

6] In our prima facie opinion there is evidence on record to establish the involvement of the applicant.

Hence the application is rejected.

(Smt.Ranjana Desai,J.)

(Smt.Mridula Bhatkar,J.)