

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE SIDE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 203 OF 2015

Nishant @ Munna Nandkumar Mane

.....Applicant

V/s.

The State of Maharashtra

....Respondent

Mr. Anand S. Patil for Applicant
Ms. P. P. Shinde APP for the State.

CORAM : SMT. SADHANA S. JADHAV, J.
DATED : MARCH 3, 2015

PC :

1) Heard. This is an application under section 439 of Code of Criminal Procedure, 1973. Applicant herein is arrested on 24/12/2013 in crime no. 319 of 2013 registered at Karveer Police Station for offence punishable under sections 302, 307, 143, 147, 148, 149, 120 (B), 323, 504, 506 of Indian Penal Code.

2) It is the case of prosecution that on 22/12/2013, Amar Bavdekar lodged a report at the police station alleging therein that on 22/12/2013, all the friends were celebrating the birthday of Swapnil Kamble. First informant was accompanied by Dhanaji Gadgil and his other friends. After celebrating the

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birthday, first informant and Dhanaji Gadgil had been to Omkar Garage. At that time, they saw 3-4 motorcycles being driven by Milind Patil and others including present applicant. All of them were armed with weapons. They mounted assault upon Dhanaji Gadgil. When the first informant attempted to intervene, he was also assaulted and injured. People started gathering on the spot and at that time, assailants had fled. First informant was taken to C.P.R. Hospital, Kolhapur. His statement was recorded in the hospital on the basis of which, offence was registered. Supplementary statement of first informant was recorded on 24/12/2013. He has specifically stated that he had mistaken Ganesh Kalgurki for Sunil Ghorpade. Hence, Sunil Ghorpade was exonerated by first informant.

3) Learned counsel for the applicant submits that the injury certificate of the first informant would indicate that the first informant was examined in the C.P.R. Hospital at about 9.45 pm and according to learned counsel, first information report which was allegedly recorded in the hospital appears to be recorded prior to his examination by the Casualty Officer and that offence was registered at 9.25 pm. According to learned counsel, F.I.R. is anti-time

and therefore it raises serious doubt. Learned counsel has further submitted that applicant is a young student and has no criminal antecedents. He has drawn the attention of this Court to the statements of the eye witness recorded under section 164 of Code of Criminal Procedure, 1973 and submits that there are inherent inconsistency. However, all these aspects are to be considered at the time of recording of substantive evidence. In the present case, specific role has been attributed to the present applicant that he had assaulted the deceased on his right thigh. The said allegation is corroborated by injury no. 6 in the post-mortem notes. Hence, applicant does not deserve grant of bail.

ORDER

- (i) Application stands rejected.

(SMT. SADHANA S. JADHAV, J.)