

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO. 902 OF 2015

Arun Baburao Mane.	... Applicant.
Versus	
The State of Maharashtra.	... Respondent.

Mr. A.H.H. Ponda i/b. Mr. P.G. Sarda, advocate for Applicant.

Ms. S.S. Kaushik, APP for State.

Mr. J.R. Dhumal, API, Koregaon Police Station, Satara.

CORAM : SMT. SADHANA S. JADHAV,J
DATE : AUGUST 10, 2015

P.C.:

1 Heard the learned Counsel for the applicant and the Learned APP for State. Perused the papers.

2 This is an applications under Section 439 of the Code of Criminal Procedure, 1973. The applicant herein has initially filed an application seeking pre-arrest bail. The said application was withdrawn. The application was withdrawn on 24/6/2013 on the

ground that the charge-sheet was filed. The applicant has thereafter surrendered on 7/2/2015. The learned APP submits that since the applicant was absconding for two years he does not deserve bail under Section 439 of the Code of Criminal Procedure, 1973.

3 It is the case of the prosecution that on 30/12/2012 Pramod Prabhakar Khape lodged a report at the police station alleging therein that the complainant had filed complaint to various authorities alleging therein that swet-wash from Laxmi Organic Company was being discharged in the ground water. It is alleged that the present applicant was transporting the swet-wash from Laxmi Organic Company. Pursuant to the complaint filed by the complainant, the trucks belonging to the applicant were seized by the Pollution Control Board. Being aggrieved by the complaint lodged by the complainant, the applicant had been to the house of the complainant on 30/12/2012. That he alongwith his brother and others had assaulted the complainant, his brother as well as his mother. It is also alleged that one Chekya had snatched the golden chain from the complainant.

4 The applicant was not armed with any weapon. The role attributed to the applicant is that he had assaulted the complainant with fists and kick blows. Therefore, it cannot be prima facie said that there was an attempt to kill.

5 The learned APP vehemently submits that two accused have been enlarged on bail under Section 167(2) of the Code of Criminal Procedure, 1973. One of the accused has been enlarged on bail on merits. It is contended that the applicant had absconded for two years after registration of offence. It is also contended that the applicant had made an attempt to mislead the Court while withdrawing the application seeking anticipatory bail. The learned Counsel for the applicant submits that in fact, the submission of the learned Counsel for the applicant at that stage was that the charge-sheet has been filed against the co-accused and the applicant wanted to go through the compilation of the charge-sheet and hence, withdrew the application.

6 Be that as it may, the case of the prosecution is that the applicant has committed offence under Section 307 of the Indian Penal Code. Perused medical certificates. The brother of the applicant to whom an act of causing incised wound to the son of the complainant is concerned, has been enlarged on bail under Section 439 of the Code of Criminal Procedure, 1973. The applicant has been in jail for almost 6 months. In view of this, further incarceration is unwarranted. Hence, the applicant deserves grant of bail.

7 It is made clear that the observations made hereinabove are restricted to an application under Section 439 of the Code of Criminal Procedure, 1973. The same shall not be considered while deciding the application for discharge or for quashing of FIR or at the time trial. The learned Trial Court shall decide the matter uninfluenced by the above said observations and arrive at a conclusion only on the basis of the substantive evidence adduced by the prosecution at the time of trial.

8 Hence, following order is passed :

ORDER

- (i) The application is allowed.
- (ii) The applicant be enlarged on bail on furnishing P.R. Bond in the sum of Rs. 25,000/- with one or more local solvent sureties in the like amount.
- (iii) The applicant shall not visit the jurisdiction of Koregaon Police Station for a period of 3 months from the date of his release.
- (iv) The applicant shall cause his attendance before the police station on 1st Sunday of each month till the conclusion of the trial.

9 The application is disposed of accordingly.

(SMT. SADHANA S. JADHAV,J)