

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE SIDE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 2492 OF 2014

Suraj @ Balu Sarjerao Patil

.....Applicant

V/s.

The State of Maharashtra

....Respondent

Mr. Nitin Pradhan a/w Ms. Ameeta Kuttikrishnan i/b Ms. Shubhada Khot for
Applicant

Ms. P. P. Shinde APP for the State.

CORAM : SMT. SADHANA S. JADHAV, J.

DATED : JANUARY 6, 2015

PC :

1) Heard. This is an application under section 439 of Code of Criminal Procedure, 1973. Applicant herein is arrested on 16/09/2013 in crime no. 285 of 2013 registered at Karad City Police Station for offence punishable under section 307, 326, 143, 144, 147, 148 & 149 of Indian Penal Code. Investigation is completed and charge-sheet is filed on 04/12/2013. Case is committed to the Court of Sessions and registered as Sessions Case No. 93 of 2013.

2) It is the case of prosecution that one Salim Mohammad Shaikh was

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admitted in Sahyadri Hospital on 30/08/2013 as he has sustained injuries. His statement was recorded by the police. He has disclosed that on 30/08/2013, he had attended the Sessions Court as an accused in crime no. 168 of 2004, wherein he was being tried for offence punishable under section 307 of Indian Penal Code. He has attended the Court along with his friend Ayaz Shahanawaz Rohile. He was near the xerox centre, wherein he suddenly heard the noise of firing. He has sustained bullet injury on his back side. He turned around and saw three persons holding revolvers in their hands. He has given the description of the said persons. Ayaz and others had taken him to the hospital. He suspected that Dhanai Tukaram Patil had framed the said plot, since Dhanaji suspected that Salim has eliminated his brother. Investigation was set in motion.

3) Supplementary statement of the victim was recorded on 02/10/2013, wherein he has alleged that he had learnt from the newspapers that Yuvraj Patil, Suraj Patil and others have been arrested as the accused in the said case.

4) Upon perusal of papers of investigation, it is clear that there is no

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allegation against present applicant that he had caused the injury to the complainant. There is nothing on record to indicate that the present applicant was present in the Court premises, when the incident had occurred. The allegation against present applicant was that he was standing outside the Court with a motorcycle and had helped accused/assailants to flee from the spot of incident.

5) Learned APP submits that in the course of investigation, applicant had disclosed that he has used a motorcycle to harbour the accused. It is discovery of a fact and not recovery under section 27 of Indian Evidence Act. The present applicant is alleged to have further disclosed that he had parked the motorcycle in front of the shop of Vaibhav Bhosale. Motorcycle was in an abandoned condition and therefore, police was informed about the same. In the course of investigation, applicant is alleged to have disclosed that he had used the said motorcycle in the alleged incident. Learned APP submits that applicant does not have any criminal antecedents.

6) Besides discovery, there is no other evidence to remotely connect the

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applicant with the alleged incident and assault. Investigation is completed and charge-sheet is filed. Hence, applicant deserves grant of bail.

ORDER

- (i) Application is allowed.
- (ii) Applicant be enlarged on bail on furnishing P. R. bond in the sum of Rs. 15,000/- and one or two sureties in the like amount.
- (iii) Applicant shall report to concerned police station on every Sunday between 10.00 am to 12.00 noon till the conclusion of trial.

Application stands disposed of.

(SMT. SADHANA S. JADHAV, J.)