

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE SIDE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 118 OF 2015

Sunny Maruti Chougule

.....Applicant

V/s.

The State of Maharashtra

....Respondent

Mr. A. P. Mundargi Senior Advocate a/w Mr. Amit B. Thorat for Applicant
Ms. Vira 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 14/03/2014 in crime no. 54 of 2013 registered at Paud Police Station for offence punishable under section 302, 341, 504, 506 r/w 34 of Indian Penal Code.

2) It is the case of prosecution that on 11/03/2013, Bhagwan Gavade lodged a report at the police station alleging therein that his son Datta had accompanied his another son Baban on 11/03/2013. At about 5.00 pm, his son Datta had been to Symboisis college and had informed his father that he would return along with Baban. Datta returned at 6.00 pm in a frightened

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condition and informed his father that when they were returning home on motorcycle, at about 5.15 pm, they were apprehended by Mahesh Gavade, Monya Nakate, Rahul Padalghare and one unknown person. They had obstructed Datta and Baban by their motorcycles. Mahesh had assaulted Baban with a stone. Monya Nakate and Rahul Padalghare were exhorting others. They were armed with knives. That Datta seen Mahesh Gavade was assaulting Baban with a scythe on his head and Monya Nakate and Rahul Padalghare and unknown person were assaulting Baban with knife on is stomach. He had come home to call upon his parents. On the basis of his report, crime no. 54 of 2013 was registered.

3) Learned counsel for the applicant submits that name of the applicant does not appear in the F.I.R. Rahul Padalghare has been granted relief under section 169 of Code of Criminal Procedure, 1973 since complainant and eye witness have categorically stated that they had wrongly mentioned the name of Rahul Padalghare as one of the assailant of Baban. It is pertinent to note that a specific role had been attributed to Rahul Padalghare as well as present applicant. In the supplementary statement, 4th person is shown as Suraj Sutar.

It would clearly indicate that complainant was well acquainted with present applicant. Learned counsel for the applicant fairly submits that Suraj Sutar is absconding as on today. Mahesh Gavade is in custody, where as Monya Nakate had been enlarged on bail since he happens to be a juvenile in conflict with Law. Besides inconsistent statement of eye witness of Datta Gavade, there is no incriminating material against present applicant. Presence of the applicant at the scene of offence would be doubtful.

4) In view of this, applicant has made out case for grant of bail. It is made clear that co-accused shall not claim parity with present applicant as present applicant has been enlarged on bail by considering the role attributed to him. It is made clear that observations made herein above are prima facie in nature and shall not be considered for quashing of F.I.R., discharge application or at the time of trial.

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 first Sunday of each month, till the conclusion of trial.
- (iv) Application stands disposed of.

(SMT. SADHANA S. JADHAV, J.)