

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE SIDE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 151 OF 2015

Nitin Bhausahab @ Balasahab Ingulkar

.....Applicant

V/s.

The State of Maharashtra

....Respondent

Mr. A. P. Mundargi Senior Advocate a/w Mr. P. G. Sarda for Applicant
Ms. P. P. Shinde APP for the State.

CORAM : SMT. SADHANA S. JADHAV, J.
DATED : MARCH 5, 2015

PC :

1) Heard. This is an application under section 439 of Code of Criminal Procedure, 1973. Applicant herein is arrested on 28/06/2014 in crime no. 115 of 2014 registered at Rajgad Police Station for offence punishable under sections 302, 307, 143, 147, 148, 149 & 427 of Indian Penal Code and section 3 r/w 25 and 4 r/w 27 of Indian Arms Act. Investigation is completed and charge-sheet is filed on 18/09/2014.

2) It is the case of prosecution that on 23/06/2014, Rishikesh Khedkar had received a phone call from Balaji Kadam, requesting him to accompany him. Informant had accompanied Balaji Kadam and they were proceeding towards

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Nasrapur. They had hypothecated gold and had received an amount of Rs. 55,430/- Complainant accompanied Balaji Kadam to Pune to purchase a Scorpio. They were going towards Pune in Swift car. Suddenly, they noticed that two persons followed them on motorcycle. They obstructed their car. The Bolero Jeep followed them. Bolero Jeep gave dash to the vehicle. 7-8 persons had alighted from the said jeep. They were armed with weapons. Suddenly they had mounted assault upon Balaji. According to the complainant, he had witnessed the said people assaulting Balaji Kadam. It is pertinent to note that the name of the present applicant is not reflected in the F.I.R. Supplementary statement complainant was recorded on 24/06/2014. In the supplementary statement, complainant has contended that on the basis of his information, investigation was set in motion and that present applicant was arrested. It is also stated in the supplementary statement that when the first informant and his companion started running in order to rescue themselves, present applicant and Rahul Valhekar had given a dash to them and made them fall on the ground.

3) Learned APP submits that the only incriminating material against

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present applicant is in the supplementary statement dated 24/06/2014 as well as statement of the co-accused recorded on 03/07/2014.

4) Learned senior counsel appearing for the applicant rightly and fairly submits that it is stated in the supplementary statement dated 24/06/2014 that applicant was already arrested, however, arrest form which forms part of the compilation of charge-sheet clearly shows that applicant was arrested on 28/06/2014. Similarly, it cannot be said that applicant was arrested on the basis of statement of the co-accused since said statement was in the form of memorandum, which was recorded on 03/07/2014. Learned senior counsel submits that first informant whose supplementary statement was recorded on 24/06/2014, has not identified him in the test identification parade.

5) Since, there is no cogent and sufficient incriminating material reflected in the charge-sheet against present applicant, case for grant of bail has been made out. However, it made clear that co-accused shall not claim parity with the applicant at any stage. It is further 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 Rajgad Police Station for three months on every Sunday between 10.00 am to 12.00 noon, commencing from 15/03/2015.
- (iv) Application stands disposed of.

(SMT. SADHANA S. JADHAV, J.)