

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO. 338 OF 2015

Jiten @ Jitu Premabhai Patel ... Applicant

VS.

- | | | | |
|----|---------------------------------------|-----|-------------|
| 1. | The Union Territory of Daman and Diu. | | |
| 2. | The State of Maharashtra | ... | Respondents |

Mr. H.H.Ponda, Advocate for the applicant
Mr. D.A.Nalawade, for respondent No.1.
Mr.J.H.Ramugade,, APP, for the respondent-State.

CORAM: SMT.SADHANA S.JADHAV,J.

DATE : 26th February, 2015.

P.C.

Heard. This is an application under Section 439 of Cr.P.C. The applicant herein was arrested on 5.7.2014 in Crime No.157 of 2013 registered at Daman Police Station for the offence punishable under Sections 307, 302, 364 read with Section 34 of Indian Penal Code. The investigation is completed and charge sheet is filed.

2. It is the case of the prosecution that the brother of Yogesh Nandwana namely Kamlesh lodged a report at the police station on 20.10.2013 alleging that a group of 10 – 15 persons had assembled and had assaulted Yogesh Nandwana,

who is an injured and Shaitansingh who had taken the Maruti car forcibly. Shaitansingh was assaulted and thrown in a pond. The injured Yogesh was admitted in Hariya Hospital at Daman. Pursuant to the statement of Yogesh, the dead body of Shaitansingh was found in the pond.

3. In the course of investigation, the investigating officer had arrested one Henil Raman Patel. While he was in custody, his statement was recorded on 29.10.2013. There was a dispute between two groups. The said person has named the present applicant as one of his associates. Besides the statement of the co-accused, there is no incriminating evidence against the applicant at least at this stage.

3. The learned counsel for the applicant rightly submits that the statement of the co-accused is not an admissible piece of evidence. The compilation of the charge sheet also shows that on 12.7.2014, the statement of the applicant is recorded which is shown to be recorded under Section 161 of Cr.P.C. The applicant has prima facie made out a case for grant of bail.

5. The observations made hereinabove shall not be considered for the purpose of quashing of FIR, discharge application or at the time of trial.

ORDER

The application is allowed. The applicant be enlarged on bail on furnishing P.R. Bond in the sum of Rs.15,000/- with one or two sureties in the like amount.

Application is allowed and disposed of.

(SMT.SADHANA S.JADHAV, J.)