

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO. 667 OF 2015

Vijay Jagdishprasad Kori @ Chintu. ... Applicant.
Versus
The State of Maharashtra. ... Respondent.

Mr. Ayaz Khan, advocate for Applicant.

Mr. S.H. Yadav, APP for State.

CORAM : SMT. SADHANA S. JADHAV,J
DATE : JUNE 16, 2015

P.C.:

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

2 This is an application under Section 439 of the Code of Criminal Procedure, 1973. The applicant herein is arrested on 24th September 2014 in Crime No. 464 of 2014 registered at Virar Police Station for offence punishable under Section 302, 143, 147, 148, 149, 323, 504,

506 of the Indian Penal Code. Investigation is completed and charge-sheet is filed on 10/12/2014.

3 It is the case of the prosecution that on 23rd September, 2014 Bhaskar Jha lodged a report at the police station alleging therein that the complainant runs coaching classes. 10 days prior to the incident, the present applicant and his friends were indulging into eve-teasing outside their class. That the complainant had requested the applicant and his associates not to indulge into the said nefarious activities. The applicant and his associates were annoyed with the complainant. On 22/9/2014 present applicant and his associates were standing outside his class. One of the accused Naria had slapped employee of the complainant. The complainant immediately came out of the class room. At that time, complainant was also slapped. There was an altercation between some miscreants from the group and the complainant. His brother-in-law namely Shashi Jha had intervened to pacify them. In the said altercation, present applicant and his associates had assaulted complainant with fists and kick blows and at

that time suddenly Vishnu had drawn a knife and had handed it to Naria. Naria had assaulted Shashi Jha on his neck with the said knife. There was extensive bleeding. Shashi Jha had succumbed to the injury on the same day.

4 The dead body of Shashi Jha was sent for autopsy. The post mortem notes show that the deceased had sustained one fatal injury on his neckline. On the basis of the said report, offence is registered against all the persons named in the FIR for the offence punishable under Section 302 of the Indian Penal Code.

5 The learned Counsel for the applicant submits that the applicant had no knowledge that in the said altercation Vishnu would hand over knife to Naria and Naria would assault Shashi Jha by the said knife. According to the learned Counsel, the applicant herein had only assaulted the complainant with fists and kick blows without any intention to cause any homicidal death.

6 Be that as it may, investigation is completed and charge-sheet is filed. Taking into consideration the facts of the case and submissions advanced across the bar, the applicant deserves grant of bail. However it is made clear that the none of co-accused shall claim parity with the present applicant and their application seeking bail be decided on its own merits.

7 Learned APP submits that the applicant does not deserve bail since he has criminal antecedents. There are 3 offences registered against applicant at Virar Police Station for offence punishable under Section 324 of the IPC, Section 435 read with Section 34 of IPC, under Section 143, 147, 148, 149, 323, 504, 506, 509 of IPC. In the present case also, fatal blow has not been attributed to the present applicant. Hence he deserves grant of bail.

8 The observations made hereinabove are prima facie in nature. The same shall not be considered while deciding application for

discharge or quashing of FIR or at the time of trial. The trial Court shall proceed with the matter on its own merits.

9 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/- and one or two sureties in the like amount.
- (iii) The applicant shall not reside in the jurisdiction of Virar Police Station till the conclusion of the trial.

10 The application is disposed of accordingly.

(SMT. SADHANA S. JADHAV,J)