

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO. 912 OF 2015

Sadique Abdul Rashid Shaikh @ Modkar.... Applicant.

Versus

The State of Maharashtra ... Respondent.

Mr. Kartik S. Garg, advocate for Applicant.

Mr. Dilawar F.H. Khan, complainant in person

Ms. P.P. Shinde, APP for State.

Mr. Praful Wagh, API, Mira Road Police Station.

CORAM : SMT. SADHANA S. JADHAV,J

DATE : JUNE 18, 2015

P.C.:

1 Heard the learned Counsel for the applicant and learned APP.

2 This is an application under Section 439 of the Code of Criminal Procedure, 1973. The applicant herein is arrested on 23/6/2014 in Crime No. 275 of 2014 registered at Mira Road Police Station for

offence punishable under Section 307, 326, 324 read with Section 34 of the Indian Penal Code.

3 It is the case of the prosecution that on 10/6/2014 the complainant who is appearing in person had lodged a report at the police station that on 8/6/2014 he was called by his friend Sajid. They had been to Haidary Chowk. There the person accompanying Sajid had thrown chilly powder in the eyes of the complainant and thereafter the complainant was assaulted. It is specifically alleged that Afsar had assaulted on his head and on his back. He had attempted to rescue from the said assault. Thereafter, Asfaq and Altaf with the present applicant had assaulted on his back. He had stopped one motor cyclist and had gone home. He was taking treatment in Thunga hospital at Mira-Bhayander Road.

4 The learned Counsel for the applicant submits that the applicant has been in jail for about one year. Investigation is completed and charge-sheet is filed.

5 Perused the papers. The medical case papers of the complainant would show that he was rather seriously injured. He had sustained contused lacerated wound on his head. The patient had undergone exploration and repair of partial radial nerve and lateral and posterior group of muscles of arm injury c/w over scalp and back with splintage.

6 Today the complainant is appearing in person and has opposed to the grant of bail mainly on the ground that in the year 2011 also he was assaulted by the present applicant. However, as on today, there is no record to substantiate the said contention. It is seen from the records that the complainant also has criminal antecedents and that there are proceedings initiated against him in the Bombay Police Act.

7 Be that as it may, as on today the applicant has been in jail for about one year and he deserves to be enlarged on bail on imposing

certain conditions taking into consideration the facts of the case and submissions advanced across the bar.

8 However, the above observations 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 decide the matter on its own merits uninfluenced by the abovesaid observations.

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.

10 The application is disposed of accordingly.

(SMT. SADHANA S. JADHAV,J)