

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE SIDE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 981 OF 2015

Raju Chandar Gowari

.....Applicant

V/s.

The State of Maharashtra

....Respondent

Mr. Dilip Mishra i/b Mr. Ayaz Khan for Applicant

Ms. S. S. Kaushik APP for the State.

Mr. J. D. Thakur, P.S.I. Virar Police Station, Palghar

CORAM : SMT. SADHANA S. JADHAV, J.

DATED : AUGUST 3, 2015.

PC :

Heard. This is an application under section 439 of Code of Criminal Procedure, 1973. Applicant herein is arrested on 10/08/2015 in crime no. 464 of 2014 registered at Virar Police Station for offence punishable under sections 302, 143, 147, 148, 149, 323, 504, 506 of Indian Penal Code. Investigation is completed and charge-sheet is filed on 10/12/2014.

2) 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

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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 brotherinlaw 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.

3) 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.

4) Learned counsel for the applicant submits that the role attributed to the

present applicant is para materia the same as that has been attributed to accused Vijay Kori @ Chintu. That by an order dated 16/06/2015, Vijay Kori has been enlarged on bail by this Court (Coram: Smt. Sadhana S. Jadhav, J.). The said order has attained finality.

5) Learned APP submits that present applicant has criminal antecedents and that he does not deserve to be enlarged on bail. Learned APP submits that applicant herein is accused in crime no. 447 of 2012 for offence punishable under section 304 (A), crime no. 267 of 2013 for offence punishable under section 324 of Indian Penal Code, crime no. 59 of 2014 for offence punishable under section 435 r/w 34 of Indian Penal Code, crime no. 230 of 2011 for offence punishable under sections, 326, 323, 504, 506 and 427 of Indian Penal Code, crime no. 8 of 2014 under the provisions of Bombay Prohibition Act.

6) Learned counsel for the applicant submits that act attributed to the applicant in the present case has to be taken into consideration, besides the antecedents. At present, bail is being prayed on the grounds of parity with accused Vijay Kori. It is submitted that applicant had not taken any undue advantage of the situation. That applicant had no knowledge that accused no.

2 was in possession of a blade and that he would hand it over to the accused no. 1 on the spur of the moment. It is further submitted that as soon as the incident had occurred and it was noticed that deceased Shashi Jha had sustained bleeding injuries at the hands of accused no. 1 & 2, present applicant and Vijay Kori had left the scene of offence.

7) By virtue of doctrine of parity, present applicant deserves grant of bail. However, it is made clear that accused no. 1 & 2 shall not, in any way, claim parity with present applicant. A specific role has been attributed to original accused nos. 1 & 2. Present applicant has been in jail since 24/09/2014. In view of this, applicant deserves grant of bail. 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. 25,000/- with one or two sureties in the like amount.
- (iii) Applicant shall not enter into the jurisdiction of Virar Police station, till the conclusion of trial.

(iv) Applicant shall attend every scheduled date of trial. Upon failure to attend any two consecutive dates of trial, prosecution is at liberty to file an application under section 439 (2) of Code of Criminal Procedure, 1973.

(v) Application stands disposed of.

(SMT. SADHANA S. JADHAV, J.)