

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE SIDE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 984 OF 2015

Siraj Masak Patel

.....Applicant

V/s.

The State of Maharashtra

....Respondent

Ms. Farhana Shah for Applicant

Ms. P. P. Shinde APP for the State.

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 24/03/2014 in crime no. 117 of 2014 registered at Malwani Police Station for offence punishable under sections 307, 506 (II) r/w 34 of Indian Penal Code.

2) It is the case of prosecution that on 23/03/2014, Shamim Khan lodged a report at the police station that on 23/03/2014, there was a cricket match between Pakistan and Australia. Complainant was watching the match. Thereafter, he was watching match between India and West Indies at about 7.30 p.m. He saw that Vasudev, Amjad, Mukaddar and two unknown Bengali boys who had come to watch match. At that time, present applicant and his brother had come to the shop to purchase the goods. They were asking the

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whereabouts of Vasudev and had threatened that they would eliminate him. Present applicant was armed with a cricket bat. He mounted assault with cricket bat on the head of Vasudev. Vasudev had fallen on the ground. At that juncture, his brother was instigating him to amount further assault. The customers in the shop had departed. Complainant tried to snatch the bat from the hand of applicant and at that time, applicant had also threatened the complainant. He was threatening people standing outside that they shall not intervene, otherwise, they would face dire consequences. It is alleged that even after Vasudev had collapsed, applicant had given 2 to 3 assaults on his person. Thereafter, one Afzal intervened and had snatched bat from the hands of applicant. Applicant is alleged to have told others that they shall not intervene. He had also threatened the witnesses that they shall not disclose about the incident to anybody or else, they would face dire consequences. Injured Vasudev was taken to Dr. Babasaheb Ambedkar Hospital. Injured was admitted in I.C.U.

3) Perused papers of investigation, more particularly injury certificate which shows that injured had sustained commuted displaced fracture on the right temporo parietal bone. It was grievous injury. Without immediate

medical intervention, it could have been fatal by all means. There was subdural haemorrhage of 7 mm width. There was haemorrhagic contusions and cerebral edema. The victim was hospitalized for about 22 days.

4) Section 320 (8) of Indian Penal Code defines grievous assault as follows:

“Any hurt which endangers life or which causes the sufferer to be during the space of twenty days in severe bodily pain, or unable to follow his ordinary pursuits.”

5) In view of this, it can be said that the injured had sustained grievous hurt. It could have been fatal. Hence, applicant does not deserve bail. More particularly, because eye witnesses have stated that even after injured had fallen at ground, applicant had mounted assault upon him, which would clearly indicate the intention of the applicant to eliminate the victim. Hence, section 307 is made out. Hence, following order.

ORDER

(i) Application, being sans merits, stands rejected.

(SMT. SADHANA S. JADHAV, J.)