

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE SIDE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 1205 OF 2015

Shoeb Hamid KhanApplicant

V/s.

The State of MaharashtraRespondent

Mr. Rizwan Merchant a/w Mr. Sultan Khan i/b Mr. Rizwan Merchant and Associates for Applicant

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

Mr. Sunil Salvi P.I., Byculla Police Station.

CORAM : SMT. SADHANA S. JADHAV, J.

DATED : 17th JULY 2015

PC :

Heard. This is an application under section 439 of Code of Criminal Procedure, 1973. Applicant herein is arrested on 31/10/2014 in crime no. 266 of 2014 registered at Byculla Police Station for offence punishable under sections 143, 147, 148, 149, 326, 307, 504, 506 of Indian Penal Code and under section 37 (A) r/w 135 of Bombay Police Act. Investigation is completed and charge-sheet is filed.

2) It is the case of prosecution that on 27/09/2014, Farooq Khan, uncle of the applicant lodged a report at the police station that there was a quarrel between the cousins over visiting the premises of the building of the present applicant. It is alleged that cousins of the applicant were indulging into eve

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teasing of the girls in the said premises and there were several complaints by residents of the said building. Applicant had tried to persuade his cousins for not visiting the said premises. On the said count, there was a quarrel between both the groups. There is also a cross complaint filed by the brother of the present applicant Shezad Khan in respect of the same incident, on the basis of which crime no. 267 of 2014 is registered against injured persons i.e. Arbaz Khan and others.

3) Learned counsel for the applicant submits that in the present case, there were as many as 7 accused persons. Six accused persons have been enlarged on bail. By an order dated 14/07/2015, Shezad Khan has also been enlarged on bail by Co-ordinate Bench (Coram: Revati Mohite Dere, J.). The role attributed to all accused persons is more or less similar in nature. In view of this, applicant claims parity with co-accused.

4) Without going into the merits of the matter, by virtue of doctrine of parity, applicant would also be entitled to enlarged on 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 solvent sureties in the like amount.
- (iii) Applicant be enlarged on cash bail of Rs. 25,000/- for a period of 2 weeks during which time, he shall furnish surety to the satisfaction of Trial Court.
- (iv) Applicant shall attend Byculla Police Station, Mumbai once a week, i.e. on every Saturday between 10.00 a.m. to 11.00 a.m., till the conclusion of the trial.
- (v) Applicant shall not tamper or attempt to threaten/influence the complainant or any persons concerned with the case.
- (vi) Applicant shall deposit his passport in the Trial Court within a period of one week from his release.
- (vii) Applicant shall not leave the Country, without the permission of the Trial court.
- (viii) Applicant shall not enter the Mazgaon and Dockyard Road area, till the conclusion of the trial.

(ix) Applicant shall inform his latest place of residence and mobile contact number immediately after being released and/or change of residence or mobile details, if any, from time to time to the Court seized of the matter and to the investigating officer of the Byculla Police Station, Mumbai.

(x) Applicant shall co-operate in the conduct of the trial and shall attend the concerned Court on every date of the hearing.

(xi) An undertaking to the aforesaid clauses (iv); (v); (vi); (vii); (viii); (ix); (x) shall be filed by the applicant in the Trial Court within two weeks after his release.

(xii) It is made clear that if there is breach of any of the conditions as stated above, the prosecution shall be at liberty to seek cancellation of bail.

(xiii) Application is allowed and disposed of.

(SMT. SADHANA S. JADHAV, J.)