

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.1549 OF 2014

Ejaz Ali @ Kadir
Shamsher Ali Sayed ...Applicant
vs.
State of Maharashtra ...Respondent

Mr. S.A. Vast, Advocate for the Applicant.
Mrs. G.P. Mulekar, APP for the State.

CORAM : P.D. KODE, J.

DATE : JANUARY 28, 2015

P.C.

. The prayer for bail made by the charge-sheeted accused No.1 in charge-sheet submitted by Shivaji Nagar police station vide C.R. No. 391 of 2013 against applicant and co-accused in furtherance of their common intention having committed offences punishable under Section 307 and 506(ii) read with 34 of Indian Penal Code is vehemently objected by learned APP on the ground that the applicant is having antecedents in as much as of his involvement in about seven bodily

offences. The learned APP has filed a report containing the details about it. It is taken on record and marked 'X' for identification.

2. It is submitted that the F.I.R. also reveals a feud in between the parties and as such there is likelihood of commission such offences by the applicant in future against the rival party. It is submitted that the involvement of the applicant is borne from the material collected during the course of investigation from the statements of in as much as six eye witnesses. However, on query it is submitted that the injured is reported to have been discharged after nine days. The perusal of the charge-sheet and predominantly account of incident as spelt from it through F.I.R. and the statements of six eye witnesses supports the submission of learned counsel for the applicant that the act of the applicant not repeating to give blow makes it highly debatable whether he can be said to have committed an offence under Section 307 of I.P.C.

3. Having regard to it and even the offence for which he is charge-sheeted being not exclusively punishable with death or imprisonment for life, the investigation is complete and the apprehension expressed by the learned APP can be taken care of by imposing proper conditions, the prayer for bail deserves consideration. Needless to add, the perusal of the charge-sheet does not reveal any circumstances for not exercising discretion in favour of grant of bail for such offences for which is rule of law.

4. Resultantly, the application is allowed. The applicant is directed to be released on bail upon executing a P.R Bond in sum of Rs. 75,000/- (Seventy Five Thousand) with one or more sureties to make up like amount and subject to conditions of the applicant (i) not entering the area of Greater Bombay save except attending the date fixed in case against him and even on the said dates he shall not

enter the jurisdiction of Shivaji Nagar police station, Mumbai. (ii) informing his place of abode and shall attend the local police station in the said area on every Monday in between 5.00 pm to 7.00 pm. (iii) not directly or indirectly making any inducement, threat or promise to any person acquainted with the facts of the accusation against them so as to dissuade him/her from disclosing such facts to the investigating officer and (iv) not misusing the protection granted by this order for fleeing away or for any other oblique purpose.

5. The bail granted to the applicant shall automatically stands cancelled in event of himself committing any further offence after the date of passing of the order.

(P.D. KODE, J.)