

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE SIDE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 2593 OF 2014

Mohammed Saddam Dildar Hussain

.....Applicant

V/s.

The State of Maharashtra

....Respondent

Mr. Mateen Shaikh i/b S. Parikh Shaikh for Applicant

Mr. S. H. Yadav APP for the State.

CORAM : SMT. SADHANA S. JADHAV, J.

DATED : 22nd JUNE, 2015

PC :

1) Heard. This is an application under section 439 of Code of Criminal Procedure, 1973. Applicant is accused in Sessions Case No. 33 of 2014 pending before Sessions Court at Palghar. Applicant is facing charges under section 302, 307, 323, 504, 506 r/w 149 of Indian Penal Code.

2) Learned counsel for the applicant vehemently submits that as on today, he is claiming bail on the ground of parity with Mr. Jiju @ Aadila Jamkur Khan. He has placed on record the copy of order dated 10/03/2015 passed by this Court (Coram: Abhay M. Thipsay, J.). The said order indicates that case mainly rests upon test identification parade. It is further observed that although accused were identified at the test identification parade, no specific

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role has been attributed to them. The allegations against present applicant are para materia the same as has been attributed to the applicant in Criminal Bail Application No. 257 of 2015. It is also observed that in the said order that one of the accused was a juvenile in conflict with law. Learned APP submits that claim of juvenility has been falsified before the Sessions Court. That may take its own course, however, as on today, it is only on the ground of parity that applicant deserves to be enlarged on bail. In fact, learned APP submits that present applicant has been identified by four eye witnesses, however, Hon'ble Justice Abhay M. Thipsay has observed that although, accused are identified by eye witnesses, no precise role has been attributed to any one of them. In fact, supplementary statements of all the eye witnesses have not been recorded.

3) It is in this premise that applicant is being enlarged on bail. However, it is made clear that besides grant of parity, merits of the case have not been considered. Other co-accused shall not claim parity with present applicant. 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. 50,000/- and one or two solvent sureties in the like amount.
- (iii) Applicant shall report to concerned police station on first Sunday of each month, till the conclusion of trial.
- (iv) Application stands disposed of.

(SMT. SADHANA S. JADHAV, J.)