

IN THE HIGH COURT OF JUDICATURE, AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO.2381 OF 2015

Vijay Yashwant Shinde	...	Applicant
Vs.		
The State of Maharashtra	...	Respondent

Mr. Satyavrat Joshi, Adv. for applicant.
Mrs. G P Mulekar, APP for State.

CORAM : SMT ANUJA PRABHUDESSAI, J.
DATE : 3rd December, 2015.

P.C. :

1. This is an application for bail filed by the applicant who is facing trial in Sessions Case No.193 of 2015 in Crime No.525 of 2014 pending on the file of Sessions Court, Pune, for offences punishable under Sections 307 and 397 of IPC.

2. Mr. Joshi, the learned counsel for the applicant submitted that the first informant is not an eye witness to the incident and has lodged the FIR on the basis of the information given to him. He has further submitted that the injured had not identified the applicant. The learned counsel further submits that the injuries sustained by the applicant are not sufficient to cause death and as such the provisions of Section 307 of IPC are not applicable. He has further submitted that though one mobile was recovered from the place of incident, there is no prima facie material to show that said mobile belongs to the applicant. He has submitted that the applicant is in custody since 8th December, 2014 and that considering the nature of the allegations levelled against him he is entitled for bail.

3. Mrs. G P Mulekar, the learned APP submitted that the injured Rajesh Mhaskar had sustained grievous injuries and was admitted in the hospital for over two months. She has further submitted that the injuries sustained by him were sufficient to cause the death. She has further submitted that blood stained cloths as well as the knife have been recovered at the instance of the applicant. She has also submitted that the wife of the applicant has identified the mobile which was recovered from the scene of offence as that of the applicant. The learned APP has further submitted that the CDR records also reveal that the wife of the applicant had received calls from the said mobile. All these circumstances are prima facie sufficient to show the involvement of the applicant in the said crime.

4. I have perused the records and considered the submissions advanced by the learned counsel Mr. Joshi and learned APP for the State. The records prima facie reveal that the injured Rajesh was working for the first informant. The FIR prima facie reveals that on 6th December, 2014, he had seen Rajesh in injured condition. Mr. Purvesh Mutha therefore, lodged the complaint against an unknown person for causing injuries to said Rajesh.

5. Said Rajesh was taken to Niramay Hospital on 6th December, 2014 and was discharged on 22nd January, 2015. The medical records reveal that he had sustained several injuries on the vital part of the body.

6. The statement of the injured prima facie reveals that on 6th December, 2014 at about 9 to 9.30 pm, while he was closing the shop,

one person pulled him back and stabbed him with a knife and that the said person ran away from the spot after seen people rushing towards the shop. The injured has stated that one cell phone of Micromax company belonging to the assailant had fallen at the spot of incident. The police had recovered the said cell phone and the same was also identified by the wife of applicant at that of the applicant. It is further reveals that the CDR records also prima facie show that the wife of applicant, Vijaya Shinde, had received calls from the said mobile. The records further reveal that while the applicant was in custody, blood stained clothes and a knife were recovered at his instance. Hence, there is prima facie material on record to show the involvement of the applicant in the said crime.

7. The nature of allegations levelled against the applicant and the nature of the injuries sustained by the injured prima facie attracts 307 of IPC. The offence is grave and serious. Moreover the trial has not yet commenced and if released on bail, there is possibility of the applicant interfering with witnesses and tampering with the evidence.

8. Under these circumstances, and in view discussion supra, the applicant is not entitled for bail. Hence the bail application is dismissed.

(ANUJA PRABHUDESSAI, J.)