

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE – CRIMINAL
BAIL APPLICATION NO.2676 of 2014

Ashraf Ahamad Shaikh ... Applicant
Vs.
State of Maharashtra .. Respondent

Mr. Sachin B. Shetye for the Applicant.
Mrs. G.P. Mulekar, APP, for the Respondent-State.
Mr. D.K. Palwankar, PSI, Kasa Police station, present.

CORAM: P.D. KODE, J.

DATED: JANUARY 21, 2015.

PC:

1. By this application the accused No.2 in the charge-sheet submitted by Kasa Police Station against the Applicant and three more persons alongwith five absconding accused for having committed offences under sections 399, 307, 341, 402, 427, etc. of the IPC, has prayed for bail. In short, it is the prosecution case that on the relevant date, time and place the complainant, who was travelling in a Mahindra Max vehicle was chased by the Applicant along with few others occupying Tata Zenon and remaining accused in another vehicle had made the complainant to halt said vehicle and one of the co-accused has thrown a stone breaking windscreen of the vehicle in which the first

informant was travelling. However, before occurring of any incident, people having gathered, all the accused had fled away but during the return journey in all four accused were caught by the people and the police arrived at the spot of incident.

2. Learned APP objected the prayer for bail on the ground that incident in question had occurred during the night time. It is submitted that the manner in which the incident had taken place in which a citizen travelling in his own vehicle was intercepted and was attempted to be murdered, the prayer for bail may be negatived. It is submitted that two sacks full of stones were found in the vehicle in which the Applicant and the co-accused were travelling and so also pieces of nylon ropes and knife.

3. It is thus prayed that considering the gravity of further offences which were likely to be committed in the said transaction, prayer for bail may be negatived.

4 Mr. Shetye, learned counsel for the Applicant pressed the prayer for bail on the ground that considering the instruments which were found, the same would never attract the provisions of section 399 of the IPC. It is urged that even accepting the fact that some stone was thrown on the vehicle in which the complainant was travelling, still the same by itself would never amount to an offence of attempt to murder.

It is submitted that as no further offence is alleged to have been committed, the prayer for bail be considered.

4. After perusal of the charge-sheet and primarily taking into consideration the offences for which the Applicant is charge-sheeted are not exclusively punishable with death or imprisonment for life, it does not appear proper to negative the prayer for bail on the count of incident having taken place during the night time and in which act of intercepting the car of first informant had occurred. Needless to add that every culprit is liable only to the extent of the act occurred at his hand and not for the act which could have occurred.

5. Having regard to it, the application is allowed by imposing certain conditions to avoid occurrence of such incidents in between parties within whom there appears to be rivalry existing.

6. Resultantly, the Applicant is directed to be released in connection with Crime No.I-124 of 2014 registered with Kasa Police Station upon furnishing P.R. Bond of Rs.50,000/- (Rupees Fifty Thousand only) with one or two sureties to make up like amount and subject to the conditions that Applicant after his release shall (i) stay at the address mentioned in the application and shall not change the same without permission of the Court; (ii) attend the I.O. on every Monday in between 5 p.m. to 7.00 p.m. until further order; (iii) not indulge in

activity of tampering, threatening, coercing, intimidating or pressurizing the prosecution witnesses in any manner; and (iv) not misuse the bail granted vide this order for fleeing away or for committing any further offence.

5. The application accordingly stands disposed of.

(P.D. KODE, J.)