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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO. 694 OF 2016

Shankar Laxman Dudhade

..Applicant.

Vs.

The State of Maharashtra

..Respondent

Mr. Raj J. Khude for Applicant.

Ms. Rutuja Ambekar APP for State.

CORAM: A.S. GADKARI, J.

DATE : 17th October 2016.

P.C.

1 This is an application under Section 439 of Cr. P.C. for bail in CR No.I-382 of 2015 dated 5.9.2015 registered with Waliv Police Station, District-Thane under Sections 307, 326 and 504 of the Indian Penal Code

2 Heard the learned counsel for the applicant, the learned APP and also perused the entire chargesheet annexed to the application.

3 The first information report is lodged by injured witness namely Smt. Sunanda D. Shelar on 5.9.2015. It is stated in the said report that, the complainant on 4.9.2015 at about 10.00 p.m. was in her house

along with her children. That the applicant in inebriated condition was talking loudly on his mobile phone near the house of the complainant. The complainant therefore requested the applicant to speak in low tone as her children were sleeping inside the house. The applicant got enraged because of the same and started abusing the complainant. The applicant thereafter took out a knife from his pocket and assaulted the complainant on her face and hand. The complainant therefore raised hue and cry, upon which her relatives residing adjoining to her house came for her help. The applicant thereafter ran away towards the hills. After the lodgment of the first information report, the police have investigated the crime. During the course of investigation, the applicant came to be arrested on 6.9.2015. After receipt of necessary and relevant reports from the concerned authorities, the police have submitted chargesheet.

4 The record reveals that apart from the statement of the injured witness Smt. Sunanda Shelar, there are statements of the eye-witnesses to the incident. The weapon used in the present crime is a kitchen knife which is recovered at the instance of the applicant under Section 27 of the Indian Evidence Act by effecting a detailed panchanaa dated 8.9.2015. In his memorandum statement dated 8.9.2015, the applicant has stated that on 4.9.2015 at about 7.00 p.m. he had purchased a kitchen knife from the

market for the purpose of cutting vegetables at his home and after consuming the liquor and when he was proceeding to his house the alleged incident took place. Though the admission of a guilt by the applicant given under Section 27 of the Indian Evidence Act is not admissible under the law. From the statement of the applicant, prima facies it appears that the applicant had purchased a knife from the market for the purpose of cutting vegetables at his house. That the applicant after consuming liquor, in inebriated condition committed the present crime by getting enraged upon a request made by the complainant to speak in a low tone. It therefore prima facies appears that the present act is committed due to sudden provocation and without any pre-meditation in that behalf. The medical certificate issued by the concerned hospital mentions that the complainant suffered in all four injuries and out of the said four injuries, injury No.1 i.e. injury on face was grievous in nature. The applicant was arrested on 6.9.2015 and since then he is in jail. The learned APP on instructions submitted that there are no antecedents at the discredit of the applicant.

5 In view of the above the applicant has made out a case for his release on bail.

Hence, the following Order:

(i) The applicant be released on bail in CR No.I-382 of 2015

dated 5.9.2015 registered with Waliv Police Station, District-Thane on his furnishing PR bond of Rs.25,000/- with one or more local sureties in the like amount.

(ii) After his release from jail, the applicant shall not enter the jurisdiction of Waliv Police Station except marking his presentee in the said police station as directed hereinbelow.

(iii) Before his release from jail, the applicant shall submit documents pertaining to his prospective residence where he intends to reside after his release from jail with the Waliv Police Station.

(iv) After his release from the jail, the applicant shall attend the Waliv Police Station, on every first Monday of the month between 11.00 a.m. to 2.00 p.m.

(v) The applicant shall also attend all the dates before the Trial Court.

(vi) Any two consecutive defaults in complying with the aforesaid conditions, shall attract the provisions of cancellation of bail.

(viii) The applicant shall not tamper with the evidence and/or influence the prosecution witnesses.

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The Application is allowed in the aforesaid terms.

(A.S. GADKARI,J.)