

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE SIDE

CRIMINAL BAIL APPLICATION NO.775 OF 2016

Mr. Salman Abdul Khalid Khan	...	Applicant
V/s.		
The State of Maharashtra	...	Respondent

....

Mr. Vijay Kumar Aggarwal with Ms. Shamim Shaikh, Advocates for the Applicant.

Ms. R.M.Gadhvi, APP for the Respondent/State.

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CORAM : N.W.SAMBRE, J.

DATED : 7th December, 2016.

P.C.

1 The applicant is seeking regular bail in Crime No.669 of 2015 for the offence punishable under Sections 302, 307, 394 read with Section 34 of the IPC and Section 37(1) of the Bombay Police Act for an alleged incident dated 1st August, 2015.

2 Mr. Aggarwal the learned counsel for applicant while trying to make out case for grant of bail submits that applicant was arrested in the present crime on 5th August, 2015 and was subject to custodial interrogation. Apart from the offence of stealing motor-cycle, which is used in the present crime, there are no criminal antecedents, there is no incriminating circumstance or the evidence apart from the identification parade. Applicant's active involvement in the crime in question is under doubt.

3 The learned APP opposed the application strenuously on the ground that two of the witnesses have identified the present applicant as a driver of the motor-cycle, which was used in the commission of crime. According to her, in view of Section 34, intention of the present applicant along with motive of participation in the crime is apparent. She submits that application be rejected.

4 From the charge-sheet, it could be noticed that the applicant was identified as a driver of the motor-cycle on which the other accused, who have actually assaulted the deceased were riding. Material which was pursuant to an offence under Section 394 of the IPC was recovered from the other two accused and also a deadly weapon. Role of the present applicant is only that of driver of the vehicle.

5 In my opinion, the case for bail in the above referred background is made out. The application needs to be allowed. Hence, the following order:

(1) The applicant shall be released on his executing PR Bond in the sum of Rs.25,000/- with one or two sureties in the like amount.

(2) The applicant shall regularly attend the trial and two consecutive defaults in attending the trial will entail the Court to proceed with cancellation of bail.

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

6 The application stands disposed of as allowed.

(N.W.SAMBRE, J.)