

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

CRIMINAL BAIL APPLICATION NO. 1031 OF 2016

Peepalrushi Avinash Rathod. ... Applicant.
Versus
The State of Maharashtra. ... Respondent.

Ms. Anita A. Agarwal, advocate for Applicant.

Ms. Veera Shinde, APP for State.

**CORAM : SMT. SADHANA S. JADHAV,J
DATE : SEPTEMBER 20, 2016**

P.C.:

1 Heard the learned Counsel for the applicant and the learned APP for State. Perused the papers.

2 This is an application under Section 439 of the Code of Criminal Procedure, 1973. The applicant herein is arrested on 3/1/2016 in Crime No. 1 of 2016 registered at Jejuri Police Station for offence punishable under Section 394, 397, 341, 504 read with Section 34 of the Indian Penal Code.

3 It is the case of the prosecution that on 2/1/2016 the complainant- Ramdas Khese had been on his motor cycle alongwith his father and son Shantanu. While he was crossing the bridge, he was stopped and the accused persons had caused grievous hurt to the complainant and his father by iron rod and sticks. It is also alleged that the complainant was robbed of Rs. 12,000/-, wallet containing driving license etc. Crime No. 1 of 2016 was registered. Investigation is completed and charge-sheet is filed.

4 The learned APP submits that the applicant has criminal antecedents, in as much as, 9 cases, besides one in which he is in jail, has been registered against him at Jejuri Police station and Saswad Police Station for offence punishable under Section 394, 392 of the Indian Penal Code and therefore, he does not deserve to be enlarged on bail.

5 The learned Counsel for the applicant submits that although there are criminal antecedents against the applicant, as on today, he

has not been convicted in any case and therefore, it cannot be said that the criminal cases are pending against the applicant. It is also submitted that the applicant has been falsely implicated.

6 The learned APP has submitted on the basis of the recovery panchanama under Section 27 of the Indian Evidence Act that the wallet of the complainant containing his driving license, two passport size photos, two diaries were found in the house of the applicant below the cupboard and there is panchanama to that effect. The learned APP rightly submits that that would be sufficient evidence to establish nexus of the applicant with the alleged offence. The learned Counsel for the applicant submits that the liberty of the individual is of paramount importance.

7 Upon perusal of the compilation of the charge-sheet, it is clear that there is sufficient material against the applicant. Liberty of individual has to be weighed against the safety and security of the

society at large and that the applicant with such criminal antecedents does not deserve to be enlarged on bail.

8 However, it is made clear that the observations made herein above are prima facie in nature and are restricted to the application under section 439 of the Code of Criminal Procedure, 1973. The learned Sessions Judge shall not be influenced by the same at the time of trial.

9 The application being sans merits stands rejected and disposed of accordingly.

(SMT. SADHANA S. JADHAV,J)