

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE SIDE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 1064 OF 2016

Deepak Shrirang Shinde

.....Applicant

V/s.

The State of Maharashtra

....Respondent

Mr. Satyavrat Joshi Advocate for Applicant.

Mr. Prashant Jadhav APP for the State.

CORAM : SMT. SADHANA S. JADHAV, J.

DATED : AUGUST 24, 2016.

PC :

1) Heard. This is an application under Section 439 of Code of Criminal Procedure, 1973. Applicant herein is arrested on 15/02/2015 in crime no. 70 of 2015 registered at M.I.D.C. Bhosari Police Station at Pune. Investigation is completed and charge-sheet and is filed against present Applicant and others for offences punishable under section, 302, 307, 143, 147, 148, 149 of the Indian Penal Code.

2) It is the case of the prosecution that on 14/02/2015, Rajesh Swami was admitted in the hospital with injuries. His statement was recorded and on the

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basis of the said statement, the crime was registered. First informant has reported that on 14/02/2015, he along with his friends Raja Hake, Deepak Shinde had been to hotel Sanket. They were consuming alcohol. That there was a verbal altercation between the group of Applicant, and Lakhan Gaikwad, Rama Gote on the other side. In the said altercation Rama Gote had assaulted the present Applicant with a broken beer bottle. Thereafter, the complainant and Rama Gote and Lakhan Gaikwad had left the hotel and were proceeding on the road. When they came near Waseem garage, they saw Deepak Shinde i.e. present Applicant, Raja Hake and his other friends standing near the garage. They had called upon Lakhan Gaikwad. They were forced to come into the said garage. It appears that the present Applicant and his associates had initially assaulted Rama Bhimrao Gote. Raja Hake had assaulted him with silencer from the garage. Thereafter, the present Applicant and others had assaulted them with fist and kick blows and suddenly, one of the friend/associate of the present Applicant namely Mahesh Kamble had stabbed Rama Gote. He had died an instantaneous death. The post-mortem note would indicate that the deceased had sustained a stab wound on lower 1/3rd of axilla 2 X 2 muscle deep and the stab wound on right hypochondriac

region of abdomen 4 X 2 cavity deep. The stab was so severe that left ventricle of heart was lacerated.

3) The learned counsel for the Applicant submits that it would be necessary to consider the role attributed to the present Applicant as the only allegation against the present Applicant is that he had assaulted the complainant, deceased and others with fist and kick blows and that he had no knowledge that Mahesh Kamble would stab Rama Gote.

4) As against this, the learned APP rightly submits that the Applicant herein was present with his associates near the garage, much before the incident as if they were waiting in ambush. That the complainant, deceased and others were dragged into the garage. That in the course of altercation, Mahesh Kamble had stabbed the deceased. That they all shared a common object. Irrespective of the act attributed to the present Applicant, it would be necessary to see that all the accused had shared a common object and had assaulted Rama Gote with an intention to cause his homicidal death. The role of the present Applicant may be considered separately at the time of the trial.

5) In view of this, Applicant does not deserve to be enlarged on bail. However, it is made clear that the learned Sessions Judge shall not be

influenced by any of the observations made by this Court as the said observations are restricted to an Application under section 439 of the Code of Criminal Procedure, 1973.

6) Application, being sans merits, stands rejected.

(SMT. SADHANA S. JADHAV, J.)