

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO.1111 OF 2016

Mr.Munna ShashiBhushan

Prasad @ Munna Patel

.. Applicant

Versus

The State of Maharashtra

.. Respondent

Mr.Ashok M. Saraogi, Advocate for the applicant.

Mrs.Rutuja Ambekar, APP for the Respondent State.

Mr.Sachin S. Pandkar, Dy.S.P. Dahanu, Investigating Officer is present.

CORAM : P.N. DESHMUKH, J.

DATED : 17th JUNE 2016

P.C. :

1 Applicant having involved in Crime No.I-432 registered on 06/10/2015 by Waliv Police Station, Dist.Palghar for the offences punishable under Sections 395, 397 and Section 4 read with 25 of the Indian Arms Act, has sought bail.

2 The learned counsel for the appellant has contended that the charge sheet is filed, and according to the contents of FIR, as well as, statement of eye witnesses and injured, no provisions of Section 395 of the IPC can be said to be attracted.

3 As against this, the learned Additional Public Prosecutor opposed the application on the ground that, there is direct evidence against the applicant.

4 Perused the FIR, wherefrom it appears that the incident had occurred on 06/10/2015 at about 9.00 p.m., when complainant Santosh was proceeding along with cash of Rs.10,000/-, he was intercepted by about 10 persons including applicant, who were armed with stick, sword and co-accused Roshan assaulted Santosh on his head by stick and removed wrist watch and mobile along with cash of Rs.10,000/-, while co-accused Umesh removed gold chain.

5 Upon receiving information, complainant's cousin Ganesh Yadav and his friend Indrajit Tiwari along with other friends when came on the spot, co-accused Rahul Choudhary assaulted Ganesh on his head by sword, while Indrajit was assaulted by Gaurav Guddu Singh by wooden stick on his hand and leg, while other accused assaulted by fist blows and wooden log.

6 On bare perusal of report, it thus appears that there are no allegation of applicant removing any article from the complainant, but the role attributed to applicant is of assaulting complainant by fist blows and wooden log. From the statements of eye witnesses Indrajeet, Ganesh and Ramajor, it appears that same role is attributed to the applicant and no role is alleged in contravention of provision of Section 395 of the IPC, as it is stated that applicant has assaulted Ganesh and Santosh by wooden stick on their person. On perusal of Medical Certificate of complainant Santosh it reveals that he has sustained injuries by wooden stick and iron rod and nature of injury is stated to be as of average and normal, while injured Ganesh is certified to have sustained one

CLW on left temporal region and is possible by sword, which weapon is not attributed to the applicant.

7 Having considering the nature of involvement of applicant, as aforesaid, together with the injury certificate of both the injured, application is liable to be allowed, as charge sheet is filed.

- (i) Applicant Mr.Munna ShashiBhushan Prasad @ Munna Patel involving in Crime No.I-432 of 2015 registered by Waliv Police Station shall be released on bail on his executing a personal bond in the sum of Rs.20,000/- with one surety in like amount.
- (ii) Applicant shall not tamper with the witnesses and shall attend the Waliv Police Station on first day of each month for three months and before the trial Court on fixed dates.

(P.N. DESHMUKH, J)