

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

CRIMINAL BAIL APPLICATION NO. 1182 OF 2016

Samir Mohan Jadhav.	... Applicant.
Versus	
The State of Maharashtra.	... Respondent.

Mr. Aniket Vagal i/b. Mr. Ramprasad V. Gupta, advocate for Applicant.

Mr. Prashant Jadhav, APP for State.

Mr. Vinay Sampat Chavan, P.C., Pusegaon Police Station, Satara.

**CORAM : SMT. SADHANA S. JADHAV,J
DATE : NOVEMBER 21, 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 16/8/2015 in Crime No. 61 of 2015 registered at Pusegaon Police Station for the offence punishable under Section 302, 307, 326, 143, 147, 148, 149,

504, 506 of the Indian Penal Code. Investigation is completed and charge-sheet is filed.

3 It is the case of the prosecution that on 15/8/2015 Maruti @ Pinu Shamrao Chavan lodged a report at the police station alleging therein that Dnyandeo Shankar Jadhav and his brothers are the resident of the same village at Karanjodha. There was quarrel between both the families. It is alleged that on 15/8/2015 he was in the agricultural land alongwith Sandeep Jadhav and Shamrao Jadhav. At about 11 a.m., Kamlesh son of Dnyandeo Jadhav accompanied by unknown persons came to the spot and questioned Sandeep as to why they had quarreled one year ago and that told him by hurling abuses that he will be punished for that and they went away. At that time at about 1.30 to 1.45 noon Sandeep and Shamrao were to leave to police station to lodge the report. When they were proceeding behind house of Bhimrao Jadhav, suddenly Dnyandev, Raising, Kamlesh, yogesh, present applicant and several others were seen consealing themselves in ambush. They were armed with deadly weapons.

They mounted assault upon Shamrao and Sandeep. According to the prosecution, all of them were armed with weapons. As far as the present applicant is concerned, it is alleged that he had assaulted Kalu Devba Jadhav and Deepak Madane. Shamrao and Dilip had succumbed to the injuries. The police had come to the spot and had started investigation.

4 There are eye witnesses to the present incident. It is a matter of record that the present applicant had accompanied Dnyandev Jadhav and others. At the time of incident he was armed with deadly weapons and had assaulted Kalu Devba Jadhav and Deepak Madane.

5 According to the learned Counsel for the applicant, it is not the case of the prosecution that the present applicant caused fatal injury to either Shamrao or Dilip and therefore, he cannot be prosecuted under section 302 of the IPC. The applicant is being charge-sheeted with the aid of section 143, 147, 148, 149 of the Indian Penal Code. It is not the question as to whom he has assaulted or whether he is

the author of the fatal injury caused to Shamrao and Dilip. It is sufficient to infer that he shared common object with the other accused persons and was a part of the unlawful assembly, which had common object of assaulting Shamrao and Dilip in such a manner that there would cause death. There is direct evidence against the applicant. No case for bail is made out.

6 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.

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

(SMT. SADHANA S. JADHAV,J)