

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 1358 OF 2016

Shri Vatan Shivaji Pawar	...	Applicant
Vs.		
The State of Maharashtra	...	Respondent

Mr. A.D.Avhad i/b. Ms. Babita P. Pandey, Advocate for the applicant.
Mr. R.M.Pethe, APP, for the State.

CORAM: SMT.SADHANA S.JADHAV,J.
DATE : 22nd September, 2016.

P.C.

1. Heard. This is an application under Section 439 of Cr.P.C. The applicant herein is arrested on 9.1.2016 in Crime No.3/2016 registered at Trambakeshwar Police Station for the offence punishable under Sections 302, 201 read with Section 34 of the IPC and Section 3 read with Section 25 of the Indian Arms Act.

2. It is a case of the prosecution that on 31.12.2015, Kiran Avhad lodged a report at the police station alleging therein that on 31.12.2015, a party was organized by one Bhushan Londe on the River Vaitarna at Picnic Point Hotel. Arjun had been to attend the said party. He had not returned. They had searched for him. His cellphone was also out of reach. Finally, on 4.1.2016, the complainant had been to Hotel Picnic Point and searched

for Arjun. He learnt that on the eve of the New Year's party, there was a quarrel amongst the boys who had attended the said party and thereafter they had met the boys. The attendants at the Hotel, had seen the photographs of Arjun and had informed the first informant that he had also attended the said party. On 5.1.2016, the first informant had been to the office of Bhushan Londe and enquired about the whereabouts of Arjun. Bhushan Londe had informed him that after 1.30 a.m., all the people who had attended the party had left the spot. It was learnt that there was a quarrel between Prince and Arjun. Subsequently Bhushan Londe had told the first informant that he had sent all the boys to Balaji on 8.1.2016. The first informant had learnt that two dead bodies were found in an abandoned condition near Trambakeshwar Ghat. He went to the spot and identified the dead body of his nephew Arjun. There was another dead body next to Arjun which was in a totally decomposed state. Subsequently, the deceased was identified as Nikhil Jadhav. On the basis of the said report, the offence was registered and investigation was set in motion. On 9.1.2016, the accused was arrested. Investigation is completed and charge-sheet is filed.

3. The learned counsel for the applicant submits that the

investigating agency has foisted the recovery of a pistol at the behest of the present applicant and besides that there is no other incriminating circumstance. It is also argued that disclosure made in the memorandum cannot be taken into consideration. The learned counsel for the applicant further submits that the compilation of the charge sheet includes the statements of the co-accused which implicate the present applicant. However, the same cannot be considered for the purpose of granting bail to the applicant.

4. The learned APP submits that there is enough material in the charge-sheet which would indicate that the applicant is also a close associate of Bhushan Londe, Prince, etc. It is not denied that the applicant had met Arjun and Nikhil that there was a quarrel over the dancing. The applicant herein was insisting upon the deceased to participate in the dance. He had slapped one of the co-accused. The statements of the witnesses are recorded under Section 164 of Cr.P.C. There is material in the charge sheet which would indicate that the present applicant had left the venue of the party along with Bhushan Londe and Prince. That prima facie involvement of the accused is writ large. The conduct of the accused also needs to be considered under Section 8 of the Indian Evidence Act. At this

stage, as the applicant had maintained silence for a period of 10 months till the date of his arrest, although he was fully aware of what had happened at the party.

5. Taking into consideration the material in the charge-sheet, and the submissions advanced across the Bar, the applicant does not deserve to be enlarged on bail at this stage.

6. The observations made hereinabove are prima facie in nature and shall not be considered at the time of trial.

7. The application being sans merits, stands rejected.

(SMT.SADHANA S.JADHAV, J.)