

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 1575 OF 2016

Aslam Popat Shaikh	...	Applicant
Vs.		
The State of Maharashtra	...	Respondent

Mr. Satyavrat Joshi, Advocate for the applicant.
Mr. Prashant Jadhav, APP, for the State.

CORAM: SMT.SADHANA S.JADHAV, J.
DATE : 16th November, 2016.

P.C.

Heard. This is an application under Section 439 of Cr.P.C. The applicant herein is arrested on 2.6.2015 in Crime No.135 of 2015 registered at Wanawadi (Integrated) Police Station for the offences punishable under Sections 307, 143, 144, 147, 148, 149, 504, 341 of the Indian Penal Code and under Section read with Section 25 of the Indian Arms Act.

2. It is the case of the prosecution that on 1.6.2015, Irshad Shakeel Mujawar lodged a report at the police station alleging therein that on that day when he was proceeding on a motor-cycle along with his friend Akbar Mody and other relatives, he had halted at the corner near Santoshi Mata Temple. At that time, Sani Hivale Sumit Kamble and the present

applicant had accosted them and had questioned them as to why they had quarreled six months ago and thereafter had mounted assault upon the complainant. He had sustained injuries. The medico legal certificate issued by Noble Hospital, Hadapsar, Pune would indicate that the complainant has sustained incised wounds on his hand and two injuries on the hypochondria area, elbow joint etc. The Medical Officer, Noble Hospital has described two injuries as grievous injuries. It is on abdomen and the fracture of Ulna.

3. The learned counsel for the applicant submits that it cannot be said that the applicant had any intention to cause homicidal death of the first informant and therefore, an offence punishable under Section 307 of IPC is not made out. He also submits that although the injuries are described as grievous injuries, they are not of such a nature which is contemplated under Section 320 of IPC.

4. It is apparent on the face of record that the applicant has no criminal antecedents. The applicant was about 20 years old at the time of incident. The other accused are juveniles in conflict with law and accused Sumit Kamble is absconding.

5. It appears from the Roznama that on 5.10.2015, 12.10.2015, 19.11.2015, 14.12.2015, 11.2.2016, 22.4.2016, 30.5.2016, 9.6.2016 and 23.6.2016 the applicant was not produced from the Jail and therefore, charge could not be framed. Moreover, the co-accused Sumit Kamble is still absconding. The learned Sessions Judge may separate the trial, if necessary.

6. Taking into consideration the papers of investigation, more particularly the nature of injuries, the fact that the applicant has no criminal antecedents and that he has been in jail for almost more than one year, the applicant deserves to be enlarged on bail. However, Sumit Kamble shall not claim parity with the present applicant. In the eventuality that co-accused Sumit Kamble files an application seeking enlargement on bail, the conduct of the accused shall be taken into consideration and the said application be decided on its own merits.

7. The observations herein are restricted to an application under Section 439 of Cr.P.C. and shall not be considered for the purpose of quashing of FIR, discharge application or at the time of trial.

ORDER

- (i) The application is allowed.
- (ii) The applicant be enlarged on bail on furnishing P.R.Bond in the sum of Rs.25,000/- with one or more sureties in the like amount.
- (iii) The applicant shall not enter into the jurisdiction of Vanwadi/Integrated Police Station, Pune, till conclusion of the trial.

Application stands disposed of.

(SMT. SADHANA S.JADHAV, J.)