

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

CRIMINAL BAIL APPLICATION NO. 1650 OF 2016

Rupesh Vitthal Dalvi.	... Applicant.
Versus	
The State of Maharashtra.	... Respondent.

Mr. B.R. Patil i/b. Mr. Vipin Bidkar, advocate for Applicant.

Mr. Vinod Chate, APP for State.

Mr. V.M. Mhamankar, API, Bharti Vidyapeeth Police Station, Pune City.

**CORAM : SMT. SADHANA S. JADHAV,J
DATE : SEPTEMBER 27, 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 25/6/2014 in Crime No. 116 of 2014 registered at Bharati Vidyapith Police Station for the offence punishable under Section 302, 395,

143, 145, 147, 148, 149, 201 of the Indian Penal Code. The investigation is completed and charge-sheet is filed on 21/11/2014.

3 The learned Counsel for the applicant submits that the applicant has not been named in the first information report, which was lodged by Sanjay More on 20/6/2014.

4 It is alleged by the prosecution that on 20/6/2014 the complainant Sanjay More lodged first information report at the police station alleging that when he was at Siddhesh Hotel, at that time the driver working with him had called him and enquired about his whereabouts. He was asked to wait at the same place and thereafter, he had met Avinash Mohite. In the evening at 5 p.m. he was asked by Aba Jadhav to come home as he was to go and meet Babulal Mohol and one Bala Chaudhary. It appears from the first information report that they had met one unknown person. That they had been to Nimbalkar Wadi and at that time another car had followed them. There were 7 to 8 persons in the said car. That Bala Chaudhari was

showing demarcation of land on the spot. It is alleged that Bala Chaudhary and the said persons had shot at Aba Jadhav. Aba Jadhav succumbed to the said injuries. In the course of investigation, the name of the applicant had transpired as one of the person who was actively involved in the said offence. On 28/6/2014 itself while in custody a memorandum of the applicant was recorded under section 27 of the Indian Evidence Act and a pistol was recovered at the instance of the applicant. Country made pistol was sent to ballistic expert which shows that the said country made pistol was in working condition, 7.65 pistol cartridges. The said pistol was used for firing prior to receipt to the laboratory.

5 The learned APP submits that there are more than 3 similar offences registered against the applicant. The learned Counsel for the applicant submits that the applicant has been acquitted in most of the offences. The learned APP has also drawn attention of this Court to the order dated 4/7/2016 passed by the Hon'ble Predecessor Bench in Criminal Bail Application No. 1919/2015 filed by the co-accused

Kunden Baburao Ghadge. The allegations and the overt act attributed to the present applicant are same in nature. Hence, the applicant does not deserve to be enlarged on bail. The application being sans merits stands rejected and disposed of accordingly.

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.

(SMT. SADHANA S. JADHAV,J)