

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE SIDE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 1711 OF 2016

Gajanan Kisan Jadhav

.....Applicant

V/s.

The State of Maharashtra

....Respondent

Mr. Sanjeev P. Kadam Advocate for Applicant.

Mr. S. S. Pednekar APP for the State.

CORAM : SMT. SADHANA S. JADHAV, J.

DATED : OCTOBER 4, 2016.

PC :

1) Heard. This is an application under section 439 of Code of Criminal Procedure, 1973. Applicant herein is arrested on 02/11/2015 in crime no. 133 of 2015 registered at Akulj Police Station, Dist. Solapur for offences punishable under section 302, 143, 147, 148, 149, 506 of the Indian Penal Code. Investigation is completed and charge-sheet is filed.

2) It is the case of the prosecution that on 17/09/2015, Vikram Kamble lodged a report at the police station, alleging therein that on 17/09/2015, his friend Ranjit Devkar was assaulted by Sachin Jadhav and others. At that time, there was one unknown person along with Sachin Jadhav, Balya Koli, Dashrat

Mane, Nitin Jagdale etc. The accused who were named in the F.I.R. were arrested on 20/09/2015.

3) It is the case of the prosecution that applicant was in love with Swapnali Bagul. That she had eloped from her house. On 31/10/2015, they had got married at Alandi. Her father had lodged a missing report. Applicant had learnt about the missing report and therefore, he had produced Swapnali before Walchand Nagar Police Station on 02/11/2015. she had disclosed to the police that the applicant had informed her that he along with his friends have committed the murder in Akluj and that his friends have been arrested. The said statement is taken as an Extra-Judicial confession before Swapnali. No test identification parade is conducted. It is only in the supplementary statements dated 28/09/2015 and thereafter that witnesses Santosh More, Atmaram Pawar and others have disclosed that applicant was member of unlawful assembly. The assailants were known to the complainant as well as the deceased and hence, their names are reflected in the F.I.R. Applicant is being referred as the person who had muffled his face.

4) The learned counsel for the applicant submits that the applicant is in jail for about 10 months. It is also submitted that Dashrat Mane has been enlarged

on bail by the Sessions Court since there is no allegation against him in respect of the actual assault by the deceased.

5) Be that as it may, as on today, besides the supplementary statements which were belatedly recorded, there is no material on record to hold, *prima facie*, that the applicant is the same person who had accompanied Sachin Jadhav and others after muffling his face. In view of this, applicant deserves to be enlarged on bail. It is made clear that the co-accused shall not claim parity with the present applicant. It is also made clear that the observations made herein above are *prima facie* in nature and shall not be considered for quashing of F.I.R., discharge application or at the time of trial.

ORDER

- (i) Application is allowed.
- (ii) Applicant be enlarged on bail on furnishing P.R. bond in the sum of Rs. 50,000/- with one or more solvent sureties in the like amount.
- (iii) Applicant shall report to Akluj Police Station on 1st and 3rd Sunday of each month till the framing of the charge.
- (iv) Application stands disposed of.

(SMT. SADHANA S. JADHAV, J.)