

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE SIDE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 1873 OF 2016

Santosh @ Santram Ankush Sawant

.....Applicant

V/s.

The State of Maharashtra

....Respondent

Mr. P. G. Sarda i/b Mr. Sachin T. Zalte Advocate for Applicant.

Mr. Prashant Jadhav APP for the State.

CORAM : SMT. SADHANA S. JADHAV, J.

DATED : SEPTEMBER 29, 2016.

PC :

1) Heard. This is an application under section 439 of the Code of Criminal Procedure, 1973. Applicant herein is arrested on 30/01/2016 in crime no. 441 of 2015 registered at Loni Kalbhor Police Station, Pune for offence punishable under sections 302, 307, 212 r/w 34 of the Indian Penal Code and section 3 (25) 3 (27) of the Indian Arms Act. Investigation is completed and charge-sheet is filed.

2) It is the case of the prosecution that Vishwas Modak lodged the F.I.R. at the said police station on 13/12/2015 alleging therein that on 12/12/2015, his friend Dattatray Ambekar had been to his house. They had been to Mahalaxmi

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Hotel at Uruli Devachi. There his cousin Dadasaheb Modak had accompanied him. They all had consumed alcohol. It is alleged that there was some quarrel in the hotel with Ajay Shinde, Mukhtar Shaikh and Nitin Bhalekar with the Manager of the hotel. On 13/12/2015, Mukhtar Shaikh, Nitin Bhalekar and Ajay Shinde had approached the complainant. There was a verbal altercation between Dadasaheb Modak and Nitin Bhalekar. They had been to Hotel Gangotri Permit Room. Again there was a quarrel between three persons and the hotel manager. It is alleged that Ajay Shinde had shot at Dadasaheb Modak who got injured and thereafter, Dattatray Ambekar was shot and had succumbed to the bullet injury on the spot.

3) In the course of investigation, it is revealed that the pistol with which the two persons were shot was belonging to the present applicant and was recovered under section 27 of the Indian Evidence Act at the behest of Ajay Shinde. Besides, the ownership of the pistol, there is no other incriminating material against the present applicant. Charge-sheet is filed. The compilation of the charge-sheet also does not indicate that the present applicant was present at the at the scene of the offence when the incident had occurred. Upon query made by this court, the learned APP, upon instructions submits

that applicant has no criminal antecedents.

4) Taking into consideration the fact that applicant has been in custody for almost 9 months, applicant deserves to be enlarged on bail. However, it is made clear that 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 two solvent sureties in the like amount.
- (iii) Applicant shall report to the concerned police station on 1st and 3rd Sunday of each month between 10.00 a.m. to 12.00 noon till the framing of the charge.
- (iv) Application stands disposed of.

(SMT. SADHANA S. JADHAV, J.)