

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 1888 OF 2016

Mauli @ Dnyaneshwar Kaluram Bajare	Applicant
Vs.	
The State of Maharashtra ...	Respondent

Mr. Satyavrat Joshi, Advocate for the applicant.
Mr. Prashant Jadhav, APP, for the State.
Mr. A.T.Shinde, ASI, Khed Police Station, Pune (Gramin) present.

CORAM: SMT.SADHANA S.JADHAV, J.
DATE : 6th December, 2016.

P.C.

Heard. This is an application under Section 439 of Cr.P.C.

The applicant herein is arrested on 21.8.2015 in Crime No.258 of 2015 registered at Khed Police Station, Dist. Pune. The investigation is completed and charge-sheet is filed.

2. It is the case of the prosecution that on 20.8.2015, Manish Kashid lodged a report at the police station alleging therein that on 19.8.2015 at about 9.30 p.m. they were about to proceed to the house of one Jyoti Kaki to celebrate the birthday of her daughter Dimple. According

to him, suddenly when they were descending the staircase, Ashok Talekar and others, including the present applicant raised a quarrel with him and that the present applicant had picked up a stump which was lying nearby and had assaulted his father on the head. Soon thereafter, his father had collapsed from the steps and the third person had joined to assault his father. On the basis of his report, Crime No.258/2015 was registered.

3. The learned counsel for the applicant has drawn attention of this Court to the order passed by this Hon'ble Court in Criminal Bail Application No.679 of 2016, wherein the co-accused Dayanand Talekar was enlarged on bail by order dated 18.7.2016.

4. The learned APP rightly submits that one of the grounds on which the co-accused was enlarged on bail is that the said accused No.3 was not subjected to test identification parade and he was identified as the third person who had assaulted Anand Kashid. There is a discussion of the topography of scene of offence. It would show that the applicant also resides in the same building. The applicant happens to be the maternal cousin of one Nirmala Talekar.

5. Upon perusal of the statement of Nirmala Talekar, it appears that the deceased used to misbehave with her and her younger sister. He used to enter their house unawares and attempt to outrage their modesty. It is alleged that on the day of incident when Nirmala was cooking in the house, the deceased had entered into the house and attempted to outrage her modesty. That Nirmala had immediately called upon her brother who rushed to the house. That the deceased was following her. There was an altercation. That the brother of Nirmala and the present applicant had asked the deceased not to enter their house in their absence as he was in a habit of misbehaving with Nirmala and her younger sister Urmila. It is specifically alleged that the applicant had picked up a stump which was lying close-by and had assaulted the deceased that turned to be fatal.

6. The learned counsel for the applicant rightly submits that the act of the present applicant was not pre-meditated. He had no enmity towards the deceased. The incident had taken place suddenly and in a fit of rage, the applicant had assaulted the deceased.

7. Taking into consideration the nature of allegations, the circumstances in which the incident had occurred and the statements of the

witnesses, coupled with the fact that the applicant has been in custody for more than one year, this Court is of the opinion that the applicant deserves to be enlarged on bail.

8. The above observations are restricted to an application under Section 439 of Cr.P.C. and the same shall not be considered 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/- and one or more solvent sureties in the like amount.

Application stands disposed of.

(SMT. SADHANA S.JADHAV, J.)