

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

CRIMINAL BAIL APPLICATION NO. 2074 OF 2016

Sanjay Mahavir Kirnagi.	... Applicant.
Versus	
The State of Maharashtra.	... Respondent.

Mr. Anand S. Patil, advocate for Applicant.

Mr. Rajan Salvi, APP for State.

**CORAM : SMT. SADHANA S. JADHAV,J
DATE : NOVEMBER 16, 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 2/6/2016 in Crime No. 136 of 2016 registered at Rajarampuri Police Station, Kolhapur for offence punishable under section 307, 363, 427, 143, 147, 148, 149 of the Indian Penal Code.

3 It is the case of the prosecution that on 30/5/2016 Suresh Rambhau Ugalmugale lodged a report at the police station alleging therein that on 29th May, 2016 at about 8.45 p.m., he met Lakhan Kamble. They were sitting on bench near Urdu School at Vikram Nagar. At about 9 p.m. the present applicant and his associates namely Tushar and Bablu Mane came to the spot alongwith 7 to 8 unknown persons. They were armed with weapons. They had raised the issue of a quarrel, which had taken place between them a month ago and that the father of the first informant had lodged the report at Rajarampuri Police Station against them. The present applicant and his associates mounted assault upon Lakhan Kamble and also assaulted first informant.

4 The injured Lakhan Kamble was taken to Rajarshi Chhatrapati Shahu Maharaj Govt. Medical College and Chhatrapati Pramilaraje Gen. Hospital, Kohapur. The certificate issued on 5/6/2016 would show that the injured was examined on 30th May, 2016. He had sustained several contusions and undisplaced fracture of mid-shaft of the right clavicle and fracture of mid-shaft of right Tibia which

needed implant. Thereafter the injured was transferred to City hospital. The injury certificate issued by City hospital on 18/6/2016 would show that there was a sutured wound over anterior chest wall below clavicle, Nasal region, left mandibular region, pulmonary contusions etc..

5 The learned Counsel for the applicant vehemently placed implicit reliance upon the certificate issued by the City Hospital and submits that the nature of injury as described by the medical officer is simple in nature. That the injury no. 3 is grievous injury. It is further submitted that the sutured injury on the chest are attributed to the co-accused who has been enlarged on bail by the Sessions Court and therefore, the learned Counsel for the applicant claims parity for the applicant.

6 It is a matter of record that the applicant herein has been charge-sheeted for offence punishable under section 302 of the India Penal Code. There are other criminal antecedents also while on bail for offence registered under section 302 of the Indian Penal Code.

The applicant was enlarged on bail and has taken undue advantage of the liberty granted by the court. The accused has committed subsequent offence while on bail and therefore, does not deserve to be enlarged on bail in the present case. Upon perusal of the injury certificate and the statement of the injured and the fact that the applicant is facing charges under section 302 of the Indian Penal, the applicant does not deserve to be enlarged on bail.

7 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.

8 The application being sans merits stands rejected and disposed of accordingly.

(SMT. SADHANA S. JADHAV,J)