

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE SIDE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 2248 OF 2016

Vishal @ Shensha Jaysingh Lokhande

.....Applicant

V/s.

The State of Maharashtra

....Respondent

Mr. Kuldeep S. Patil Advocate for Applicant.

Mr. R. M. Pethe APP for the State.

CORAM : SMT. SADHANA S. JADHAV, J.

DATED : 2nd DECEMBER, 2016.

PC :

1) Heard. This is an application under section 439 of the Code of Criminal Procedure, 1973. Applicant herein is arrested on 11/07/2015 in crime no. 10 of 2015 registered at Warje-Malwadi Police Station, Pune. Investigation is completed and charge-sheet is filed against accused for offence punishable under section 302 r/w 34 of the Indian Penal Code and under section 3, 4 r/w 25 & 27 of the Indian Arms Act.

2) It is the case of the prosecution that one Sachin Shinde had got married to sister of co-accused Shubham Dhavde. Shubham and his friends had threatened Sachin of dire consequences. They had apprehended danger to the

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life of Neha also i.e. the wife of Sachin Shinde and therefore, Neha was brought to the house of Sachin Shinde and she was residing in her matrimonial house. On 06/01/2015, first informant Rohit Shinde who happens to be brother of Sachin Shinde had received an information that his brother Sachin was lying dead near Akshay Palace Hotel. He had been to the spot and found his brother in pool of blood. He lodged a report on the basis of which crime no. 10 of 2015 is registered against unknown persons.

3) In the course of investigation, Investigating Officer had recorded the statements of Pratik Pasalkar, Sachin Kale etc who had claimed that they were eye witnesses to the incident. According to them on 06/01/2015, they had heard the noise of firing near Akshay Palace Hotel. They had seen Shubham, Amey, Nakul, Chetan, Murli and Ashok as well as Yogesh Shingade actually assaulting Sachin Shinde. They had gone at a distance to conceal their presence at the scene of offence. They had seen Nakul Khade armed with a revolver. Rest of the accused were armed with sickles, sattur and swords. Eye witnesses claim as they had seen the present applicant at the distance making gestures in order to exhort the accused persons and after hearing a cry that the police have arrived, applicant had taken Nakul and Amey along with him on

his motor cycle. The role attributed to the applicant was of exhortation and harbouring the offenders. Eye witnesses are consistent about the role played by the present applicant.

4) The learned counsel for the applicant rightly submits that there is no material to even remotely indicate that applicant had actually participated in assaulting Sachin Shinde, neither he was armed with weapons.

5) In view of this, taking into consideration, the papers of investigation more particularly the statements of eye witnesses, applicant deserves to be enlarged on bail. It is made clear that there is specific role attributed to the co-accused and they shall not claim parity with present applicant in any manner. It is further made clear that observations made herein above are restricted to an application under section 439 of the Code of Criminal Procedure, 1973 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 Warje-Malwadi Police Station on 1st and 3rd Sunday of each month, commencing from 05th December 2016 till the framing of the charge.
- (iv) Application stands disposed of.

(SMT. SADHANA S. JADHAV, J.)