

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 2277 OF 2016

Shri Toufik Zakirhushain Nadaf ...	Applicant
Vs.	
Senior Inspector of Police & Anr. ...	Respondents

Mr.Satyavrat Joshi i/b. Mr. Balwant V. Salunkhe, Advocate for the applicant.
Mr. R.M.Pethe,APP, for the State.

CORAM: SMT.SADHANA S.JADHAV, J.
DATE : 18th November, 2016.

P.C.

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

The applicant herein is arrested on 29.5.2016 in Crime No.115 of 2016 registered at Sangli City Police Station, Sangli. for the offences initially registered under Sections 326, 506 read with Section 34 of the Indian Penal Code. The investigation is completed and charge-sheet is filed against the accused-applicant and the co-accused for the offences punishable under Sections 307, 323, 504, 506 read with Section 34 of the Indian Penal Code.

2. It is the case of the prosecution that Geeta Vijay Bhosale lodged a report at the police station alleging therein that the present applicant happens to be her neighbour. On 28.5.2016, at about 9.30 p.m., the present applicant and his relatives were standing at the door-step. She had requested them to give her way as she had to fill water. According to the first informant, the applicant and his relatives got annoyed at the manner in which she had asked them to give her way and had abused her. According to her, there was a verbal altercation. Her brother Prakash had intervened and questioned as to why his sister was being abused. The verbal altercation had taken an ugly turn and thereafter, according to her, the present applicant had mounted assault upon her brother with deadly weapons like iron rods, etc. The investigation is completed and charge-sheet is filed.

3. Upon perusal of the papers of investigation, it appears that on 28.5.2016, Prakash Bhosale was referred to Padmabhushan Vasantdada Patil Hospital at Sangli by the police with alleged history of assault by known persons. The injured had sustained two contused lacerated wounds. As on today, the injured has been discharged from the hospital and has recovered.

4. The applicant is not an habitual offender. The incident had taken place on the spur of the moment, in a fit of rage. There was no pre-meditation. The co-accused has been enlarged on bail. It is in these circumstances that further incarceration would not be necessary. hence, the applicant deserves to be enlarged on bail.

5. It is made clear that the observations are restricted to an application under Section 439 of Cr.P.C. and shall not be considered at the time of quashing of FIR, discharge application or 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/- with one or more sureties in the like amount.
- (iii) The applicant shall not enter Sangli City, except for the purpose of trial and shall cause his appearance on the date of framing of charge and thereafter.

Application stands disposed of.

(SMT. SADHANA S.JADHAV, J.)