

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

CRIMINAL BAIL APPLICATION NO.2458 of 2016

Praving Shrikant Muneshwar

.....Applicant

V/s.

The State of Maharashtra

....Respondent

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Mr.V.V. Purwant, Advocate for Applicant.

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

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CORAM : SMT. SADHANA S. JADHAV, J.

DATED : 14th DECEMBER, 2016.

PC :

1) Heard. This is an application under Section 439 of Cr.P.C. The applicant herein is arrested on 17.09.2015 in Crime No.83 of 2015 registered at Nhavasheva Police Station, Alibaug for the offences punishable under Sections 307, 506(2), 109 read with Section 34 of the Indian Penal Code.

2) It is the case of the prosecution that on 16.09.2015, one Santoshibai w/o Ramprasad Thakur lodged a report at Police Station alleging therein that on 15.08.2015, her brother in law Sonu had come home with three

friends. Out of them one is named Sainath. In the evening, they had left the house along with Sonu. On the same day, at about 9.00 p.m., two persons who had contacted Sonu had come home. They had taken her husband for a ride. They returned home in an intoxicated state of mind. They had asked the complainant to cook food immediately. She refused to oblige and at that time, one of them had stabbed her on her neck and abdomen. When she raised hue and cry they had run away from the spot.

3) Perused the papers of investigation. The compilation of charge sheet shows that, she was examined by the doctor and an injury certificate is issued by Municipal Corporation of Greater Mumbai (K.E.M. Hospital) on 18.09.2015. It shows that, Shantoshibai was examined on 16.09.2015. The final diagnosis is shown as “stab injury”. The situs of injury is not mentioned in the said certificate. There is no other certificate in the compilation of the charge sheet. The statement of one Kushal Yadav is recorded under section 164 (5) of Cr.P.C. And according to him on the date of incident, he had heard the cries of Santoshibai. He opened the door and at that time he saw one person running away. He had enquired with Santoshibai as to what has happened as he had seen injuries on her neck and waist. She disclosed that

Sainath has assaulted her. He immediately informed the husband of Santoshibai and thereafter he has taken her to D.Y.Patil Hospital. The compilation of the charge sheet does not included any certificate issued by D.Y. Patil Hospital. The husband of the first informant has deposed that he was at home when the incident had occurred. According to him, on the date of incident, Kushal Yadav has heard the cries of his wife and he had called upon one Pyarelal Ravate. According to her husband, she was lying in a pool of blood. He has also stated that his wife was taken to D.Y. Patil Hospital at Nerul. According to him on the next date i.e. on 16.09.2015, she was admitted in K.E.M. Hospital, Mumbai.

4) Taking into consideration the fact that, the medical certificate does not show that the said injury would have been sufficient in the ordinary course of nature to cause death, it would not be possible to hold that the applicant has committed an offence punishable under section 307 of Indian Penal Code. The applicant has been in custody for almost more than one year. Hence, it is in these circumstances that the applicant deserves enlargement 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 taken into consideration for the purpose 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.50,000/- with one or more solvent sureties in the like amount.
- (iii) The applicant shall report to Nhavasheva Police Station on 1st and 3rd Sunday of each month till framing of charge.

Application stands disposed of.

(SMT. SADHANA S. JADHAV, J.)