

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 2496 OF 2015

Chirnajiv @ Chirya Prashant Thorave ...	Applicant
Vs.	
The State of Maharashtra ...	Respondent

Mr. Satyavrat Joshi, Advocate for the applicant.
Mr. R.M.Pethe, APP, for the State.

CORAM: SMT.SADHANA S.JADHAV, J.
DATE : 5th December, 2016.

P.C.

Heard. This is an application under Section 439 of Cr.P.C. The applicant herein is arrested on 28.4.2014 in Crime No.164/2014 registered at Dattawadi Police Station, Pune Rural, District Pune, on 12.4.2014. The investigation is completed and charge-sheet is filed against the present applicant for the offences punishable under Sections 302, 307, 143, 147, 148, 149 of the Indian Penal Code and under Section 3 read with Section 25 of the Indian Arms Act.

2. In Crime No.164/2014, there are in all eight accused persons. Seven accused have been enlarged on bail by the Sessions Court. The prosecution has not challenged any of the orders and hence the orders

granting bail have attained finality.

3. It is the case of the prosecution that on 11.4.2014, Avinash Niwangune had been to the snooker club along with his friend Vikrant Kudle. That while they were playing snooker at about 9.45 p.m., 5-6 boys barged into the Club. They were armed with deadly weapons. They mounted assault upon Vikrant Kudle. One of the assailants was armed with a pistol. They had also assaulted all the boys who had attempted to intervene, including the first informant. The boys had taken the injured to Jagtap Hospital, when he was declared dead.

4. It is pertinent to note that the present applicant is the neighbour of deceased Vikrat Kudale. That the first information report was lodged against unknown persons. That on 13.4.2014, the supplementary statement of the first informant was recorded in which he had disclosed that there was some dispute between Mubin and Umar and that due to old enmity, there was a assault on Vikrant Kudle.

5. Perused the statement of the eye-witness. It is pertinent to note that the incident had occurred in the Club and yet no overt act is attributed to any of the accused persons. The witnesses had given description of the

accused persons and therefore test identification parade was conducted. It is pertinent to note that all the 8 accused persons were identified in the test identification parade, including the juvenile in conflict with law – Rambhau. There has been recovery at the instance of almost all accused persons.

6. Upon perusal of the orders passed by the learned Sessions Judge granting bail in favour of the co-accused, it is specifically mentioned that the accused have been identified at the test identification parade and that there is recovery against him.

7. The learned APP has fairly submitted at this stage that the first informant Aviansh Niwangune had failed to identify the present applicant. Despite this, the applicant is the only person in detention. It is in these circumstances that the applicant deserves enlargement on bail

6. It is made clear that the above observations are restricted to an application under Section 439 of Cr.P.c. and shall not be considered 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 the Dattawadi Police Station, Pune , on first Sunday of each month till framing of charge.

Application is allowed and disposed of in the above terms

(SMT. SADHANA S.JADHAV, J.)