

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 291 OF 2016

Vinu Vasant Patil	...	Applicant
vs.		
The State of Maharashtra	...	Respondent

Mr. Anoop R. Pandey, for the applicant.
Ms. P.P.Shinde, APP, for the State.

CORAM : SMT. SADHANA S.JADHAV,J.
DATE : 10th January, 2017.

P.C.

Heard. This is an application under Section 439 of Cr.P.C. The applicant herein is arrested on 8.10.2015 in Crime No.254 of 2015 registered at Shil Daighar Police Station initially for the offence under Section 326 of the Indian Penal Code. The investigation is completed and charge sheet is filed against the accused for the offences punishable under Sections 307, 326 read with Section 34 of the Indian Penal Code and under Sections 37(1) and 135 of Bombay Police Act.

2. It is the case of the prosecution that on 8.10.2015, Nisar Ahmed Khan lodged a report at the police station alleging therein that on that day, at about 9.15 a.m., he was at the shop of his son. At that time, Parvez had been to the office. Parvez was armed with a sword. He questioned as to why the police report

was filed against him and at the same time, assaulted Akbar Ali Nazir Khan on the face and back with the sword. He was accompanied by his associate i.e. Vinu Patil, Javed and others. It is alleged that the present applicant was present at the scene of offence and had exhorted Parvez to assault Nazir.

3. The investigation is completed and charge-sheet is filed on 12.1.2016.

4. The learned APP submits that the applicant has criminal antecedents and that there are as many as more than ten cases registered against him. At one stage, the investigating agency was to invoke the provisions of MCOCA against the present applicant. However, the Investigating Officer ACP Vikram patil had appeared before the Court and has submitted that the provisions of MCOCA are not applicable.

5. Perused the papers of investigation. The Injury Certificate of Nazir shows that he had sustained lacerated wounds on his nose, mouth and forearm when he was admitted in the hospital. There is an incised wound on his upper lip, chopped wound on the nose, fracture of Ulna and fracture of tooth as well as 3 abrasions. The allegation against the present applicant is

specific that he had exhorted Parvez to assault Nazir. There is no material to indicate that the applicant was also armed with any weapon and hence the role of assault is attributed to Parvez.

6. The observations are restricted to an application under Section 439 of Cr.P.C. and the same 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 his furnishing P.R. bond in the sum of Rs.50,000/- with one or more local solvent sureties in the like amount.
- (iii) The applicant shall not reside within the jurisdiction of Shil Daighar Police Station.
- (iv) The applicant shall report to Kalyan Police Station on first and third Sunday of each month till framing of charge.
- (v) The applicant shall not leave Mumbai, Thane and Palghar without prior permission of the Court.

The application is allowed in the above terms and stands disposed of.

(SMT.SADHANA S.JADHAV,J.)