

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE SIDE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 584 OF 2016

Sagar Ramu Gaikwad

.....Applicant

V/s.

The State of Maharashtra

....Respondent

Mr. Prashant Pandey Advocate for Applicant.

Ms. P. P. Shinde APP for the State.

CORAM : SMT. SADHANA S. JADHAV, J.

DATED : 17th FEBRUARY, 2017.

PC :

1) Heard. This is an application under section 439 of Code of Criminal Procedure, 1973. Applicant herein is arrested on 20/07/2015 in crime no. 422 of 2015 registered at Bhandup Police Station. Investigation is completed and charge-sheet is filed against the applicant and others for offence punishable under sections 307, 114, 504, 506 (2) of the Indian Penal Code.

2) It is the case of the prosecution that on 20/07/2015, one Naeem Shaikh lodged a report at the police station alleging therein that on 19/07/2015, at about 7.30 p.m., when he was returning home and passing through Nala, Darvesh, Sagar and one unknown person accosted him and that they had all

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assaulted him with a chopper on his waist. According to the first informant, the motive was that Darvesh had previous enmity with the informant. That he was lying on the ground in an injured condition and Darvesh was threatening by passing a remark that nobody shall interfere with one Nohid Bhai who is also accused in the present case.

3) Perused the injury certificate of the first informant. He had sustained contused lacerated wound over right forearm, left forearm, left side of forehead, superficial abrasions over forearm, superficial abrasions over lower back. He has been admitted in the hospital.

4) The learned counsel for the applicant has drawn the attention of this court to the injury certificate of the present applicant which shows that he was also examined at the Municipal Corporation Hospital on 19/07/2015 and he had sustained a contused lacerated wound on his left hand and over the middle phalynx and also contused lacerated wound on right side of scalp over temporal region. The learned counsel for the applicant submits that in fact, it was an altercation. It is also submitted that the co-accused Nohid Khan has been enlarged on bail by the Sessions Court. In any case, Nohid Khan has not been named in the F.I.R. nor is shown to be present at the time of incident and

therefore, he has been enlarged on bail although, there were 26 cases pending against him. Applicant has been in custody for more than 18-19 months.

5) The learned APP submits that applicant has criminal antecedents and therefore does not deserve to be enlarged on bail.

6) As against this, the learned counsel for the applicant submits that the complainant has suppressed material facts. Two accused have filed applications seeking discharge. Application has not yet been decided and therefore, the trial is being protracted. It is also submitted that out of 4 criminal cases registered against the applicant, he has been acquitted in one case under section 307 of the Indian Penal Code and other two cases are disposed of.

7) Be that as it may, taking into consideration the fact that the applicant was injured in the same incident and that investigation is completed and charge-sheet is filed, applicant deserves to be enlarged on bail. However, it is 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. 15,000/- with one or more local sureties in the like amount.
- (iii) Applicant shall remain present before on every stipulated date before the Court.
- (iv) On failure to report on any two consecutive dates, the learned Sessions Judge may issue non-bailable warrant and take the applicant in custody.
- (v) Applicant shall also report to the concerned police station on every alternative Sunday, commencing from 05/03/2017, between 10.30 a.m. to 01.00 noon, till the conclusion of trial.
- (vi) Application stands disposed of.

(SMT. SADHANA S. JADHAV, J.)