

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 598 OF 2016

Mr. Fatte Abbas Shaikh	...	Applicant
Vs.		
The State of Maharashtra	...	Respondent

Mr. M.K.Kocharekar a/w Ms. Sonal Parab i/b. Rajeev Sawant & Associates
for the applicant.

Ms. J.S.Lohokare, APP, for the State.

Mr. Amnand D. Jadhav, PI, D.N.Nagar Police Station present.

CORAM: SMT.SADHANA S.JADHAV, J.

DATE : 16th January, 2017.

P.C.

Heard. This is an application under Section 439 of Cr.P.C. The applicant is arrested on 21.8.2015 in Crime No.537 of 2015 registered at D.N. Nagar Police Station for the offence punishable under Section 307 read with Section 34 of the Indian Penal Code. The investigation is completed and charge-sheet is filed.

2. It is the case of the prosecution that on 20.8.2015, Smt. Saida Sayyed lodged a report at the police station alleging therein that on 20.8.2015, when she was at home along with her mother, she had heard some loud noise outside her house. At that time she saw Imtiyaz had come

to the house in an injured condition and had informed her that he had been attacked by Patte Abbas Shaikh with a chopper. He was taken to Cooper Hospital. It appears that the father of Imtiyaz, at the same time, had lodged a report against the brother of Saida for causing some nuisance in the area. It appears from the records that there is a cross complaint from both sides. It is apparent from the face of record that the initiation of criminal proceedings against the brother of the complainant is prior to lodging of the FIR by Saida.

3. Perused the Injury Certificate issued by Cooper Hospital. The injury certificate indicates that Imtiyaz had sustained a contused lacerated wound on left shoulder and on cheek. Both the injuries are described as grievous injuries.

4. The learned counsel for the applicant submits that according to the complainant, the injury was caused by a chopper. However, the injuries are in the nature of contused lacerated wounds.

5. Be that as it may, as on today, the applicant has been in custody for more than 16 months. As on today, the trial has not commenced. The

learned counsel for the applicant submits that the situs of the injuries would indicate that there was no intention on the part of the applicant to cause death or attempt to murder. Taking into consideration all these aspects, the papers of investigation and the submissions advanced across the Bar, this Court is of the opinion that the applicant deserves to be enlarged on bail.

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.25,000/- with one or more sureties in the like amount.
- (iii) The applicant shall report to the D.N.Nagar Police Station on first Sunday of each month till framing of charge.
- (iv) The applicant shall furnish details in respect of his residence, cellphone number, telephone number.

Application stands disposed of.

(SMT. SADHANA S.JADHAV, J.)