

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

CRIMINAL BAIL APPLICATION NO.993 OF 2017

Manika Ramdhari Yadav

...Applicant

Versus

The State of Maharashtra

...Respondent

Mr. Santosh Bhamre for the applicant.

Smt. J. S. Lohokare, APP for the respondent – State.

Mr. Sanjay Bende, Police Inspector, Narpoli Police Station present.

CORAM : PRAKASH D. NAIK, J.

DATE : 11 JULY, 2017

P.C. :

1. This is an application for regular bail. The applicant is arrested on 25th July, 2016 in connection with C.R. No.I-336 of 2016 registered with Narpoli Police Station, Bhiwandi, Thane for offence punishable under sections 143, 147, 148, 302 of IPC and section 37(1)(A) read with section 135 of Maharashtra Police Act.

2. It is the prosecution case that the incident had occurred on 18th July, 2016. The complainant Mithun Mhatre is carrying on business of supplying of water. The water is fetched from the well situated at Karivali village, Bhivandi. The said business was also carried out by Raju Manka Yadav about 1 ½ year before the incident. The aforesaid

well was taken on lease by the complainant from its owner. Hence, there was animosity between Raju Manka Jadhav and the complainant as well as his associate Vijay Kumar. The complainant and his friend were assaulted by Raju Manka Yadav on the earlier occasion and the complaint was lodged with the Narpoli Police Station for the offence punishable under section 324 of IPC. The assailants in the said case were arrested by the police and were released on bail. The complainant and his friend Vijay Kumar @ Sonu Yadav had assaulted Raj Kumar Patel and Manka Yadav and in that regard the complaint was lodged at Narpoli Police Station in which the complainant and Vijay Yadav were arrested. About 7 to 8 months prior to the present incident one Pramod Yadav had lodged a complaint against the complainant and Vijay Kumar at Bhoiwada Police Station, Bhivandi regarding the assault. On 18th July, 2016, the complainant and his friend Vijay Kumar @ Sonu were together. Vijay Kumar left with the motorcycle of the complainant. At about 10.15 pm the complainant noticed that Raju Manka Yadav came with a chopper. He was accompanied with other persons. They were also armed with weapons. Raju Yadav assaulted Vijay Kumar by chopper on his neck. Sonu Yadav and Raj Kumar Patel also assaulted him by choppers. Pramod Yadav caught hold of Vijay Kumar. Manka and

Kashi Yadav were shouting that the victim should be assaulted. The injured was taken to the hospital. Subsequently, the injured succumbed to the injuries. The offence under section 302 of IPC was registered.

3. Learned advocate for the applicant submits that the applicant has been falsely implicated in this case. It is further submitted that the presence of the complainant at the scene of offence is doubtful which is evident from the statement of one Pankaj Yadav which was recorded on 19th July, 2016. It is submitted that the applicant is in custody from date of his arrest and the chargesheet has been filed.

4. Learned APP opposed the application for bail. It is submitted that there is enmity between two groups on account of which the alleged incident had taken place. It is submitted that the applicant was instigating the other accused including the son of the applicant. It is submitted that one case is pending against the applicant under section 324 of IPC. She also submitted that the application may be rejected.

5. On perusal of the chargesheet and more particularly the statement of eye witnesses, it is apparent that the role which has

been assigned to the applicant is that he was present at the scene of offence and he was shouting and instigating the other accused. The co-accused had starting assaulting the victim and the applicant thereafter started shouting that the victim should be assaulted. Admittedly, there is enmity between two groups. Considering the role assigned to the applicant, bail can be granted to the applicant.

:: ORDER ::

- (i) Bail Application No.993 of 2017 is allowed.
- (ii) The applicant is directed to be released on bail on furnishing P.R. Bond in the sum of Rs.30,000/- (Thirty Thousand only.) with one or more sureties in the like amount.
- (iii) The applicant is directed to stay away from the jurisdiction of Narpoli Police Station, Bhiwandi and Bhiwandi Police Station.
- (iv) The applicant is directed to attend Kapurbawdi Police Station, Bhiwandi, Thane once in a month on first Saturday of the month between 11.00 am to 1.00 pm.
- (v) Application stands disposed of.

[PRAKASH D. NAIK, J.]