

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE SIDE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 1360 OF 2016

Rahul Harilal Jaiswal @ Pankaj

.....Applicant

V/s.

The State of Maharashtra

....Respondent

Mr. Prabhat J. Dubey Advocate for Applicant.

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

Mr. P. D. Kerkar, API Kandivali Police Station.

CORAM : SMT. SADHANA S. JADHAV, J.

DATED : 3rd FEBRUARY, 2017.

PC :

1) Heard. This is an application under section 439 of Code of Criminal Procedure, 1973. Applicant herein is arrested on 08/07/2015 in crime no. 234 of 2015 registered at Kandivali Police Station for offence punishable under sections 393, 394, 397, 506 (II) r/w 34 of the Indian Penal Code.

2) It is the case of the prosecution that on 07/07/2015, Rajesh Gupta, a vegetable vendor, lodged a report at the police station alleging therein that on 07/07/2015, he was crossing Iraniwadi Road No. 4, and was proceeding towards Atul Tower at about 2.30 a.m. for purchasing vegetables in auction.

ism

Suddenly two persons had approached him and had stopped him. One of them had put his hand in the pocket of complainant. Other person had caught hold of him. They had snatched money from his pant pocket. When he was attempting to resist the said persons, they had assaulted him with deadly weapon and he had sustained injuries on his wrist, forearm and on his forehead. The complainant had given the description of the said accused. On the basis of his report, crime no. 234 of 2015 was registered.

3) In the course of investigation test identification parade was conducted. The complainant had identified the present applicant. Papers of investigation would reveal that the complainant was taken to Oscar Hospital immediately i.e. at about 3.00 a.m. He had given history of homicidal injury by unknown persons with a sickle. He had sustained grievous injuries on his right forearm. It was a open wound. He had also sustained grievous injury on the frontal region on his forehead. Nerves of ulna were damaged. After admission at about 5.00 a.m., he was not in a position to give the statement. The certificate issued by Oscar Hospital would clearly indicate that he had sustained grievous injuries.

4) The learned counsel for the applicant submits that there was previous

enmity between complainant and applicant and therefore, he has been falsely implicated. The said submission would be against the records as F.I.R. is lodged against the unknown person and the applicant has been identified in the test identification parade.

5) The learned APP has filed a report which indicates that there are similar offences registered against the present applicant. He is an accused in crime no. 251 of 2014 registered at Kandivali Police Station under section 326, 504 r/w 34 of the Indian Penal Code. He is also an accused in crime no. 366 of 2009 registered at Malad Police Station for offence punishable under section 379 of the Indian Penal Code and crime no. 505 of 2011 for offence punishable under section 4 r/w 25 of the Indian Arms Act. It is clear that while applicant was enlarged on bail in other offences, he has committed present offence and in view of this, applicant does not deserve to be enlarged on bail.

6) Application, being sans merits, stands rejected.

(SMT. SADHANA S. JADHAV, J.)