

FARAD CONTINUATION SHEET No.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO. 1730 OF 2017

Dashrath M. Kushwah vs. The State of Maharashtra

Office Notes, Office Memorandum of Coram, appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders
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Mr. K. Marathe i/by A.A.Tungare for the Applicant.

Mrs. Rutuja Ambekar, APP for the State.

CORAM : A.S.GADKARI, J.

DATE : 5th October, 2017.

P.C.

1. This is an application for bail under Section 439 of the of the Cr.PC. in CR No.386 of 2016 dated 4.9.2016 registered with Chaturshrungi Police Station, District Pune under Sections 307 and 353 read with 34 of the Indian Penal Code.

2. Heard the learned counsel for the applicant and the learned APP and perused the entire charge sheet.

3. The first information report is lodged by Baban Maruti Gund, Police Head Constable attached to Chaturshrungi Police Station, Pune on 4.9.2016. It is the prosecution case that on 3.9.2016 after 8.00 p.m. when the first informant along with Police constable Shri. Amar Abdul Shaikh were on petrolling duty on Sus Khind-Pashan Road, with a view to avoid robbery in the night, at about 9.15p.m. they noticed three persons walking from the said road in suspicious manner. The first informant and the constable who was accompanying him therefore accosted the said three

persons and were in the process of taking their search, when the said three persons resisted it the police personnel therefore, tried to arrest them. One of the persons from the said group whipped out an air gun which was concealed at his waist and fired one round towards the first informant. It is alleged that the said round hit on the right side of rib of the first informant. The other two persons assaulted constable Amar Shaikh. The first person thereafter assaulted constable Amar Shaikh with the butt of the said air gun on his head. During the said scuffle the said persons fled from the place. In the premise, the first information report is lodged. During the course of investigation the applicant came to be arrested on 8.9.2016 and after completion of investigation the police have submitted charge sheet.

4. The statement of the first informant namely Baban Maruti Gund- Police Head Constable has been duly corroborated by Amar Shaikh Police Head Constable accompanying the said informant on the date, time and place of the incident. Mr.Amar Shaikh also stated that one of the three persons assaulted him on his head with the butt of a country made fire arm. He has also stated that one of the unknown person fired at police head constable Gund and thereafter accused persons ran away from the scene of offence.

5. The Medical Certificate issued in favour of Amar Shaikh mentions that the said police constable has received a head injury and having sharp and clean cut wound on frontal region. The Medical Certificate issued in favour of Head constable Gund also corroborates his version mentioned in the medical report. It is to be

noted here that in the test identification parade conducted by the Investigating agency the first informant namely police head constable Baban Gund has identified the present applicant as the person who had held him at the time of said assault. After perusing the material available on record, it is thus clear that the applicant has been duly identified by the first informant and his role has been specifically mentioned therein. The record further indicates that a country made fire arm has been recovered at the instance of the applicant under Section- 27 of the Evidence Act.

It is to be further noted here that, the police personnel when were performing lawful duty, assaulted by the applicant and other co-accused. According to me the offence alleged against the applicant is indubitably serious in nature.

In view of the above, the applicant does not deserve to be released on bail.

6. Application is accordingly rejected.

(A.S. GADKARI, J.)