

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 1749 OF 2016

Mr. Lokendra Bhagirath Shingh Rathor
@ Payal @ Lucky Sagar Varma Applicant/Accused

Versus

State of Maharashtra Respondent
through Azad Maidan Police Station, Mumbai.

Mr. A.S.Kale i/b. Mr Dushyantdeo A. Upadhyay for
Applicant/Accused.
Ms. P. P. Shinde, APP for Respondent/State.

CORAM : SMT. SADHANA S. JADHAV, J.
DATE : 20TH JANUARY, 2017.

P.C.

. Heard. This is an application under Section 439 of Cr.P.C.
The applicant herein is arrested on 7th January, 2016 in Crime No. 3
of 2016 registered at Azad Maidan Police Station. The investigation
is completed and charge sheet is filed against the applicant along
with others under Sections 302, 325 read with Section 34 of Indian
Penal Code. The charge sheet is filed on 6th January, 2016.

2. It is the case of the prosecution that on 6th January, 2016
Vyenkatesh Rajmani Kale lodged the report to the police station that
on 4th January, 2016 his cousin sister approached him and informed

him that she has received information that his brother has been brutally assaulted by an unknown person and is lying on the footpath of M. K. Road besides the Churchgate Railway Station. They rushed to the spot. That Manda Kale was found in an injured condition. He was taken to Gokuldas Tejpal Hospital, Mumbai. He was advised to be admitted in ICU. The doctor had informed him that there is damage to the internal organs of Manda Kale and that due to impact of blows, his kidney has failed.

3. On 4th January, 2016, he then went to Churchgate Railway Station and made enquiry about the incident. One person running a pan stall informed that three unknown persons, who are transgender had assaulted Manda Kale on that day. Thereafter the report was filed and investigation was set in motion. The Investigating Officer had also taken the CCTV footage of the said spot, which clearly shows the images of the present applicant and the co-accused. On the basis of that, they were arrested.

4. Perused the statement of pan stall owner, who has stated that there was a quarrel between these three persons i.e. the three accused persons with Manda Kale and they had brutally assaulted him. People had also interfered to pacify, however, they were not in mood of yielding to the request of the people. The statement of one Riyasatali Abdul Rafiq Siddiqui would also show that they had seen the CCTV footage and identified the present applicant as one of the assailants of Manda Kale. A certificate under Section 65-B of Indian

Evidence Act is also filed on record. The impact of the blow given by the accused was such that the injured had sustained blunt injuries on abdomen. There was jejunal perforation.

5. Taking into consideration the papers of investigation, the role attributed to the applicant and the verification of CCTV footage which shows the mode of assault on Manda Kale, this court is not inclined to grant bail. The application is being devoid of merit stands rejected.

(SMT. SADHANA S. JADHAV, J.)