

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE SIDE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 2003 OF 2016

Iqbal Ismail Shaikh

.....Applicant

V/s.

The State of Maharashtra

....Respondent

Mr. Vikas V. Khanolkar Advocate for Applicant.

Ms. R. M. Gadhvi APP for the State.

CORAM : SMT. SADHANA S. JADHAV, J.

DATED : 4th JANUARY, 2017.

PC :

1) Heard. This is an application under section 439 of the Code of Criminal Procedure, 1973. Applicant herein is arrested on 30/01/2016 in crime no. 77 of 2016 registered at Juhu Police Station for offences punishable under sections 307, 363, 354, 341, 323, 504, 506 (2) of the Indian Penal Code. Investigation is completed and charge-sheet is filed.

2) It is the case of the prosecution that on 30/01/2016, Juhu Police had received an information from one Joseph Rocky to the effect that one person had thrown a small boy in gutter. On the basis of the said information, police had reached the spot which was mentioned in the information. There the

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complainant Shahnaz Shaikh disclosed to the police that applicant herein was insisting upon her to divorce her husband Nadeem and get married to him. According to her on 30/01/2016, she was on her way to the hospital to give tiffin to her husband who was admitted in Cooper Hospital. Both the sons were accompanying her. When the rickshaw had stopped at the signal, applicant had boarded the rickshaw and had insisted upon her to maintain relations with him. On her refusal, he had threatened to cause harm to her minor son Sufiyan who was about 3 years old at that time. According to the complainant, applicant had finally thrown the child in the adjoining cutter. On the basis of her report, crime was registered. Medical case papers issued by Cooper Municipal General Hospital dated 30/01/2016 would indicate that the child was discharged on 01/02/2016. The child was conscious and oriented. Medical certificate also shows that there was no abnormality found. The child was referred to Neuro Surgeon and was to be taken to the Neuro Surgeon on 05/02/2016. The report further shows that what was disclosed to the doctor was an alleged history of fall in the gutter. Applicant has been in custody for almost 11 months.

3) The learned counsel for the applicant submits that the victim had

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sustained abrasions. There was a quarrel between mother of the victim and the applicant.

4) Taking into consideration the fact that the investigation is completed and charge-sheet is filed coupled with the fact that the victim had not sustained any grievous injuries, except abrasion on left side of the forehead, applicant deserves to be enlarged on bail. However, it is made clear that observations made herein above are restricted to an application under section 439 of the Code of Criminal Procedure, 1973 and shall not be considered for quashing of F.I.R., discharge application or at the time of trial.

ORDER

- (i) Application is allowed.
- (ii) Applicant be enlarged on bail on furnishing P.R. bond in the sum of Rs. 25,000/- with one or more sureties in the like amount.
- (iii) Applicant shall report to the concerned policed station on first Sunday of each month till framing of the charge.
- (iv) Application stands disposed of.

(SMT. SADHANA S. JADHAV, J.)