

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE SIDE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 2111 OF 2016

Mohammad Saddam Moh. Shafiq
Shaikh @ Lassiwala

.....Applicant

V/s.

The State of Maharashtra

....Respondent

Mr. Rohan Prakash Surve Advocate for Applicant.
Ms. J. S. Lohakare APP for the State.
Mr. B. S. Pawar, PSI, Bhiwandi City Police Station.

CORAM : SMT. SADHANA S. JADHAV, J.
DATED : 11th JANUARY, 2017.

PC :

1) Heard. This is an application under section 439 of Code of Criminal Procedure, 1973. Applicant herein is arrested on 08/05/2015 in crime no. 157 of 2015 registered at Bhiwandi City Police Station for offence punishable under sections 393, 397 r/w 34 of the Indian Penal Code. Investigation is completed and charge-sheet is filed against the accused on 17/12/2015.

2) It is the case of the prosecution that on 08/05/2015, Mrs. Naina Sharma lodged a report at the police station alleging therein that on that day, at about 3.30 p.m., she was washing clothes at Varala Devi Tank. One person came

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near the spot and was washing his hands and legs. He had seen golden Mangalsutra hanging from the neck of the complainant. He had snatched the same and tried to flee from the spot. The complainant raised hue and cry. The said person had drawn a knife and threatened her of dire consequences. People had gathered on the spot and had accosted him and had started beating him, at that time, he called his associates by the name Amir and Mohsin, however, seeing the crowd in action, his associates abandoned him. Thereafter, people had called upon the police. Upon inquiry, the said person had disclosed his name as Saddam Shaikh i.e. present applicant.

3) In the course of investigation, stolen article golden Mangalsutra is recovered from the applicant. The learned counsel for the applicant submits that the applicant is on enemical terms with one Mahendra Gaikwad and at his behest that the present F.I.R. is lodged. That he has been falsely implicated. It is further submitted that recovery of the golden article is a farce, in as much as according to the learned counsel for the applicant, recovery is foisted upon the applicant.

4) At this stage, the learned APP submits that there are as many as 26 cases pending against the applicant for offence punishable under section 379,

394, 342 of the Indian Penal Code. In crime no. 56 of 2009 registered at Bhoiwada Police Station applicant was prosecuted for offence punishable under section 379 of the Indian Penal Code and he has been convicted in the said offence. He was arrested in crime no. 95 of 2013 where he attempted to break the lock up and flee from the police custody and hence, he is also being prosecuted for offence punishable under section 224 of the Indian Penal Code.

5) As far as the present case is concerned, applicant was apprehended on the spot. People had accosted him and had then handed him over to the police. There is recovery under section 27 of the Indian Evidence Act at the behest of the applicant. Hence, applicant does not deserve to be enlarged on bail.

6) Application, being sans merits, stands rejected.

(SMT. SADHANA S. JADHAV, J.)