

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 2297 OF 2016

Kailash Dadu Pawar	...	Applicant
Vs.		
The State of Maharashtra	...	Respondent

Ms. Mallika A. Ingale, for the applicant.

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

CORAM: SMT.SADHANA S.JADHAV, J.

DATE : 12th January, 2017.

P.C.

Heard the learned counsel for the applicant. This is an application under Section 439 of Cr.P.C. The applicant herein is arrested on 19.8.2015 in Crime No.436 of 2015 registered at Santa Nagar Police Station, Mumbai. The investigation is completed and charge-sheet is filed against the accused for the offences punishable under Sections 307, 504,506(II) of the Indian Penal Code and under section 37 read with Section 135 of the Bombay Police Act.

2. It is the case of the prosecution that on 19.8.2015, Vanita Santosh Ahire was admitted in DNA Multi-speciality Hospital as she

had sustained stab wounds. It appears to be a medico-legal case and therefore a report was given to the police station. The PSI of Santa Nagar Police Station recorded statement of the injured. She disclosed that Pooja Pawar happens to be a distant relative but a close friend. That the present applicant happens to be the first cousin of Pooja Pawar. They reside in the close proximity. That Vanita happens to be the distant cousin of the present applicant. Six months prior to the incident, she had trifling quarrels with the present applicant. On 19.8.2015, Vanita had been to the house of Pooja Pawar and they were to proceed to the market for purchasing vegetables. They decided to watch the television on the mezzanine floor of the said house. While leaving, Pooja had switched off the television. When they were descending the stairs, the applicant got annoyed by the fact that the television was switched off and stabbed Vanita in the staircase itself. Pooja had intervened. It is alleged that the present applicant had stabbed her with a kitchen knife. She was rushed to the hospital and had got timely treatment. She was discharged from the hospital on 26.8.2015.

3. The learned counsel for the applicant submits that it is true that the injured had sustained grievous injuries in the nature of stab injuries and ICG tub had to be inserted. The injured was in ICU and thereafter shifted to the ward. It is submitted that the injured was an indoor patient for 20 days or more.

4. The learned counsel for the applicant submits that the applicant had no intention to cause homicidal death of the victim. In fact, the applicant is a alcohol and drug addict and was attending rehabilitation programe since 2013. It is submitted that it was under the influence of alcohol tht the applicant had lost his mental equilibrium and had stabbed Vanita. The applicant has been in custody for more than 1-1/2 year. The learned counsel submits that it would be necessary to take care of him and see to it that he is sent to rehabilitation centre.

5. Taking into consideration the fact that the applicant has been in custody for more than 1-1/2 year and moreover the injured has recovered. Charge-sheet is filed,hence, the applicant does not deserve

to be enlarged on bail.

6. The observations herein are restricted to an application under Section 439 of Cr.P.C. and shall not be taken into consideration for the purpose of quashig of FIR, discharge application or at the time of trial.

ORDER

- (i) The application is allowed.
- (ii) The applicant be enlarged on bail on his furnishing P.R.Bond in the sum of Rs.20,000/- with one or two sureties in the like amount.
- (iii) The applicant shall not reside in Samta Nagar till the conclusion of the trial.

Application stands disposed of.

(SMT. SADHANA S.JADHAV, J.)