

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

BAIL APPLICATION NO.2541 OF 2017

Sudhir Masurkar Applicant

Vs.

The State of Maharashtra Respondent

Mr. Samir Vaidya a/w Ms. Kaustubh N. Marathe i/by Mr. R.B. Thombare for the Applicant.

Ms. S.S. Kaushik, APP for the State.

Coram : Smt. Sadhana S. Jadhav, J.

Date : 11th December, 2017

P.C.:

1 Heard the learned counsel for the applicant. Perused the papers of investigation .

2 This is an application under Section 439 Code of Criminal Procedure. The applicant is arrested on 22nd April, 2017 in Crime No.124 of 2017, registered at Sahakar Nagar Police Station, Pune, for the offences punishable under Sections 307, 336, 323, 504, 506(II) read with 34 Indian Penal Code. The investigation is completed and charge-sheet is filed.

2 It is the case of the prosecution that on 22nd April, 2017, one Mujammil alias Gotya Abdul Najir lodged a report at the Police Station, that 15 days prior to 22nd April, 2017, there was a trifle quarrel between one Kshitij and one another, whose father happens to be a close acquaintance of the present applicant. They had settled the quarrel amicably. Thereafter, on 18th April, 2017, at about 11.30 pm, the present applicant had gone to the house of the complainant. He was under intoxicated condition. He was abusing him outside his house. The complainant had ignored his demeanor, since the applicant was under the influence of alcohol. That on 18th April, 2017, the applicant had threatened the complainant of dire consequences. On 22nd April, 2017, at about 3.30 pm., when the complainant was sitting with his friend, the applicant alongwith his associates had mounted assault on the complainant initially with fists and kicks blows. When one of his friend had tried to intervene, one unidentified person assaulted Mehul. Vishal, co-accused had assaulted Mehul with a beer bottle on his head. It is alleged that the present applicant had assaulted the complainant with a sharp edged

sickle. He had assaulted the complainant after he had fallen on the ground. The complainant has further stated that when he tried to flee from the spot, the applicant and his associate had chased him. It is alleged that soon thereafter Mehul and the complainant were admitted in Pawar hospital and then given medical aid.

3 On the basis of the said statement, Crime No.124 of 2017 is registered at Sahakar Nagar Police Station, Pune. The investigation is completed and charge-sheet is filed

4 The medical certificate of the complainant would show that he was admitted in the hospital on 22nd April, 2017 and was discharged on the same day after the injuries were sutured. He has sustained three contused lacerated wounds on his right frontal parietal region, right parietal region and right occipital region alongwith 3 x 5cm. scalp oedema as well as at anterior aspect of tibia mid between right knee ankle. Mehul had sustained abrasion over nose and blunt trauma on his forehead.

5 Learned counsel for the applicant submits that the nature of his injuries would indicate that the applicant had no intention to commit the murder of the complainant or his associate. That the offence would at the most fall under Section 325 Indian Penal Code. That the applicant has been in the custody for more than six months and the charge-sheet is filed and therefore the learned counsel for the applicant prays for bail.

6 As against this, the learned APP submits that he is an accused in Crime No. 439 of 2011 and being prosecuted under Sections 143, 147, 148, 149, 427 and 436 Indian Penal Code as also an accused in Crime No. 208 of 2013, for the offence punishable under Sections 399 and 402 Indian Penal Code and Crime No.93 of 2010, for the offences punishable under Sections 326, 504 read with 34 Indian Penal Code. The learned APP submits that the applicant is not a law abiding citizen and therefore does not deserves to be enlarged on bail.

7 Taking into consideration the facts of the present case, the nature of injuries sustained by the complainant and the papers of the investigation, this court is of the opinion that the applicant deserves to be enlarged on bail on certain conditions.

8 The observations made hereinabove are restricted to the application under Section 439 Code of Criminal Procedure and shall not be taken into consideration for the purpose of quashing of F.I.R., discharge application or at the time of trial. Hence, the order :

ORDER

1 The application is allowed.

2 The applicant-Sudhir Masurkar be enlarged on bail on furnishing P.R. bonds in the sum of Rs.30,000/- with one or more solvent sureties in the like amount.

3 The applicant shall not reside in Pune till 30th August, 2018. At the time of being enlarged on bail, the applicant shall furnish the address, where he would stay till 30th August, 2018.

4 The applicant shall give his cell-phone number as well as the address and shall report to the concerned police station after every 15 days.

(Smt. Sadhana S. Jadhav, J)