

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 2564 OF 2016

Mahesh Allad Tarkar	...	Applicant
Vs.		
The State of Maharashtra	...	Respondent

Mr.A.M.Bhalerao, Advocate for the applicant.
Mrs.P.P.Shinde,APP, for the State.

CORAM: SMT.SADHANA S.JADHAV, J.
DATE : 16th February, 2017.

P.C.

Heard. This is an application under Section 439 of Cr.P.C. The applicant herein is arrested on 6.6.2016 in Crime No.154 of 2016 registered at Naupada Police Station, Thane. The investigation is completed and charge sheet is filed against the present applicant for the offences punishable under Section 307, 354 of the Indian Penal Code and under Sections 3, 25 of the Indian Arms Act.

2. It is the case of the prosecution that on 6.6.2016, Ms. `X' lodged a report at the police station alleging therein that she was residing at Ratanmanjusha Building with her uncle. On 6.6.2016, when she was at home, the present applicant who was acquainted with her, approached her and insisted upon her to stay with him. He had also informed her that he

had deserted his wife for her. Decree of divorce is passed and he has requested her elder brother to look after his son. He had to pay rs.25 lakhs to his wife towards alimony. The first informant had told him that she does not love him any more and therefore she does not wish to marry him. Being enraged, he had threatened her by his revolver and made an attempt to strangulate her. She managed to rescue herself. He had brandished the revolver and thereafter assaulted her. She had told him that she would not file any report against him and on that condition he had let her go. The first informant was taken to Horizon Hospital and she was examined. She had given history of assault. She had sustained lacerated wound on the occipital region. The applicant is in custody since 6.6.2016. The compilation of the charge-sheet would indicate that the applicant and the complainant were in intimate relationship. They had stayed at Hotel Sai Heritage and Sai Leela. There is an entry to that effect. The Manager of the said hotel has confirmed that the applicant had been to the said hotel along with the complainant.

3. The learned counsel for the applicant submits that the act of the applicant was a reaction to grave and sudden provocation. It is not a premeditated act. The applicant was in love with the complainant. He had divorced his wife and abandoned his son and at that stage, the complainant

had refused to marry him and therefore, according to the learned counsel, the applicant had only threatened her and caused no harm. Be that as it may, the investigation is completed and charge-sheet is filed and the applicant has been in custody for almost 8 months. The applicant, therefore, deserves to be enlarged on bail.

4. The observations are restricted to an application under Section 439 of Cr.P.C. and shall not be taken into consideration while deciding the application for quashing, discharge application or at the time of trial.

ORDER

- (i) The application is allowed.
- (ii) The applicant be enlarged on bail on furnishing P.R. bond in the sum of Rs.50,000/- with one or more local solvent sureties in the like amount.
- (iii) The applicant shall report to the concerned police station on first Sunday of each month till framing of charge.
- (iv) The applicant shall not visit the jurisdiction of Naupada Police Station till the conclusion of the trial.

Application is allowed and stands disposed of.

(SMT. SADHANA S.JADHAV, J.)