

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 2638 OF 2016

Mr. Ganesh Banshi Nath	...	Applicant
Vs.		
The State of Maharashtra	...	Respondent

Mr.Niranjan Mundargi i/b. Mr. Randhir Singh, Advocate for the applicant.
Ms. Veera Shinde, APP, for the State.
Mr. Janardan Parabkar, PI, Virar Police Station present.

CORAM: SMT.SADHANA S.JADHAV, J.

DATE : 20th February, 2017.

P.C.

Heard. This is an application under Section 439 of Cr.P.C.

The applicant herein is arrested on 13.9.2016 at Virar in Crime No.20 of 2016 registered at Virar Police Station. The investigation is completed and charge-sheet is filed against the applicant under Section 3 sub-clause (2) of the Maharashtra Prevention and Eradication of Human Sacrifice and other Inhuman, Evil and Aghori Practices and Black Magic Act, 2013 (for short, said Act).

2. It is the case of the prosecution that the applicant was popularly known as 'Baba'. He had lured people with an idea that he could shower money upon them. That the applicant had entered into the office of the complainant at about 12 noon on 11.9.2016 and had introduced himself as Aghori Baba. He had also informed the first informant that he can fulfill the wishes. He had asked the complainant to accompany him to Ujjain and

that he is required to pay Rs.25,000/- to the applicant. He had also threatened the informer that he could destroy him by black magic. The complainant had suspected the bonafides of the applicant. He had informed the police and called the police to Virar. The applicant had been to the spot. The first informant had called some social workers who were working in eradicating black magic. The applicant had made a frail attempt to shower money. At that time, he was accosted by the police and taken into custody.

3. The learned counsel for the applicant submits that the applicant has no criminal antecedents. There is no similar complaint filed against him at any police station. That was the first attempt and, in all probabilities, he was attempting to fool the first informant by pretending to indulge into black magic. Be that as it may, the punishment contemplated for the offence under Section 3(2) of the said Act is not less than six months, but it may extend to 7 years and with fine which shall not be less than five hundred rupees. The sentence would depend on the gravity of the offence.

4. Taking into consideration the nature of allegation and the punishment contemplated, this Court is of the opinion that the applicant deserves to be enlarged on bail.

5. The learned APP submits that the applicant is an original native of Rajasthan and may not be available for trial. The presence of the applicant at the time of trial cannot be ensured while granting bail. Hence the following order.

6. The observations are restricted to an application under Section 439 of Cr.P.C. and shall not be taken into consideration for the purpose of quashing of FIR, 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.25,000/- with one or more local solvent sureties.
- (iii) The applicant shall report to the Virar Police Station on every Sunday between 10.30 a.m. to 12 noon till framing of charge.
- (iv) After framing of charge, the applicant shall mark his presence before the Court on each and every date. Upon failure to attend any two consecutive dates either before the police or the learned Magistrate, the prosecution would be at liberty to file an application seeking recall of the appellate order.

Application stands disposed of.

(SMT. SADHANA S.JADHAV, J.)