

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

BAIL APPLICATION NO. 2962 OF 2017

Sudam Pralhad Dhavale.	... Applicant.
Versus	
The State of Maharashtra.	... Respondent.

Mr. Rahul S. Kate i/b. Mr. Rupesh A. Zade, advocate for Applicant.

Ms. Veera Shinde, APP for State.

Mr. A.A. Kare, P.C. Daund Police Station, Pune.

**CORAM : SMT.SADHANA S. JADHAV,J
DATE : DECEMBER 20, 2017**

P.C.:

1 Heard the learned Counsel for the applicant and the learned APP for State.

2 This is an application under section 439 of the Code of Criminal Procedure, 1973. The applicant herein is arrested on 4/12/2017 in Crime No. 699 of 2017 registered at Daund Police Station for offence punishable under section 354, 323, 504, 506 read with section 34 of the Indian Penal Code.

3 It is the case of the prosecution that on 1/12/2017 Manda Shendekar lodged a report in the police station alleging therein that on 1/12/2017 she had been to village Deulgaonraje to visit her relative. She is a resident of Daund. At about 12 noon she had reached Deulgavraje. On her way to her relative's house, the present applicant had apprehended her, abused her and solicited physical relationship with her and thereafter, he had assaulted her with his footwear, fists and kick blows. It is also alleged that the applicant had touched her inappropriately. She had then visited Daund Police station and lodged a report on the basis of which Crime No. 699 of 2017 came to be registered.

4 The learned Counsel for the applicant submits that although the first information report indicates that the applicant was stranger, in fact, it appears that the complainant was known to the applicant. From the FIR, it can be gathered that he was stalking her for quite some time and therefore, there was an altercation.

5 The learned APP submits that there are eye witnesses to the incident. The present applicant has behaved in an inappropriate manner with the complainant and has humiliated her and therefore, he does not deserve to be enlarged on bail.

6 The applicant is in custody for almost 3 weeks. The offence punishable under section 354 of the Indian Penal Code is punishable upto not less than one year and it may extend up to 5 years. It is in these facts of the case, the applicant deserves to be enlarged on bail on imposing stringent conditions.

7 However, it is made clear that the observations made hereinabove are prima facie in nature and restricted to the application under section 439 of the Code of Criminal Procedure, 1973. The trial Court shall not be influenced by the above observations at the time of hearing of application for discharge or quashing of FIR or at the time of trial. The same be heard on its own merits.

8 Hence, following order is passed :

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 sureties in the like amount.

(iii) The applicant shall not visit Daund till filing of the charge-sheet and shall not tamper with the evidence.

9 The Application stands disposed of accordingly.

(SMT. SADHANA S. JADHAV,J)