

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

CRIMINAL BAIL APPLICATION NO.324 OF 2018

Mayur Mahadev Kamble ... Applicant

V/s

The State of Maharashtra ... Respondent

Mr.Hrishikesh Mundargi i/by Mr.Subir Sarkar for the Applicant.
Mr.Rajan Salvi, APP for the State/ Respondent.

**CORAM : SMT.SADHANA S. JADHAV, J.
DATE : JUNE 19, 2018.**

P.C. :

1. Heard.
2. This is an application under section 439 of Cr.P.C.. The applicant herein is arrested on 4th May 2016, in Crime No. 128 of 2016, registered at Miraj Rural police station, for the offences punishable under Sections 302, 324, 143, 147, 148, 149, 120(B) r/w 109 of Indian Penal Code and under Sections 4, 25 and 27 of the Indian Arms Act.
3. It is the case of the prosecution that on 30th April 2016, Vishal Lakshman Kamble lodged a report at the police station alleging therein that on 29th April 2016, they had a contract of catering. On 29th April 2016, after completing the job they were

returning home at about 8.15 p.m.. They were proceeding on the motor cycle and Sudhir was a pillion rider. They were followed by a motor-cycle and three unknown persons had assaulted him and his brother with stumps and sticks. The complainant was also assaulted. He had called ambulance on his cellphone and had taken his brother to Miraj Civil Hospital. He had specifically stated that they were assaulted by unknown persons. Sudhir had expired on the next date i.e. on 1st May 2016, at 6.50 a.m. The post mortem notes would indicate that he had sustained as many as 17 injuries in the nature of abrasion, contusion and certain cultured wounds on the head. The co-accused Mahesh Kamble has been enlarged on bail by this court vide order dated 21st December 2017. On 1st May 2016, supplementary statement of the complainant is recorded, wherein he has stated that on 14th April 2018, there was a quarrel between two groups on the occasion of Ambedkar Jayanti. The present applicant was assaulted on 14th April 2018, and at that time, he had threatened them of dire consequences. He has named the present applicant as one of the assailants, similarly Mahesh Kamble was also named as an assailant and it was stated that since it was night time, he could

not see the number of the motor cycle and the number of the auto-rickshaw, in which the assailants had arrived at the spot. Another supplementary statement was recorded on 17th March 2017, in which he had stated that because he was scared of Mahesh Kamble and the present applicant he had not named them on the first day; that initially he had stated that there were only three persons, who had assaulted Sudhir and the complainant and thereafter, he has given names of seventeen persons out of which sixteen persons are enlarged on bail. It is pertinent to note that the complainant was well acquainted with the present applicant and his brother Mahesh Kamble and yet the information which was given was against the three unknown persons. Moreover, he had subsequently stated that the assailants were speaking in Hindi. There was no prelude to the incident and no reference to the procession dated 14th April 2018. Taking into consideration the papers of the investigation and the submissions advanced before the court, this court is of the opinion that the applicant has made out the case for grant of bail.

4. The observations are restricted to application under section 439 of Cr.P.C. and shall not be taken into consideration for the

purpose of quashing of FIR and discharge application or at the time of trial.

ORDER

- i) The Application is allowed.
- ii) The applicant be enlarged on bail on furnishing PR bond in a sum of Rs.50,000/- with one or more solvent sureties in the like amount.
- iii) The applicant shall not reside at Miraj till the conclusion of the trial except for attending the courts.
- iv) The application is allowed and disposed of accordingly.

(SMT.SADHANA S.JADHAV, J.)