

20- BA 1298 of 2018

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

BAIL APPLICATION No. 1298 OF 2018

Aakib Asif Diwade

...Applicant

Vs.

The State of Maharashtra

...Respondent

Mr. Harihar Bhavé a/w. Harshvardhan G. Khambete i/b. Bhavé & Co.

Mr. Prashant Jadhav -APP

CORAM : SMT. SADHANA S. JADHAV, J.

DATE: JULY 4, 2018

P.C.

1. Heard. This is an application filed under Section 439 of the Criminal Procedure Code.

2. The Applicant herein is arrested on 25th November, 2017 in Crime No. 433 of 2017 registered at Kharghar Police Station, for the offence punishable under Section 326 of the Indian Penal Code. The investigation is completed and the charge-sheet is filed against the present Applicant for the offence punishable under section 307 of the Indian Penal Code.

3. It is the case of the prosecution that on 21st November, 2017, Ashfaq

Abdul Latif Patel lodged a report at the police station alleging therein that the family is indulging into supply of bricks and his younger brother is also engaged in the same business. That he has friends viz. Arfat and Aakib – i.e. the present Applicant. They mostly go for dinner outside. On 20th November, 2017, in the evening, the Applicant had called upon Umarmiya Patel and invited him for dinner. He had gone for dinner in a Wagon R Car of the Applicant. Thereafter, they had received a phone call of one of the close acquaintance that the present Applicant had assaulted the brother of the complainant viz. Umarmiya Patel on the mid-line of his neck by sharp weapon viz. razor blade. The injured was initially taken to the Al-Shifa Hospital and, thereafter, he was taken to civil hospital at Panvel.

4. From perusal of the papers of investigation, it appears that the friends had quarreled over some minor issue and, thereafter, the Applicant had allegedly caused said injury. Perused the injury certificate issued by Al-Shifa Hospital. The said certificate indicates that the injured had sustained contused lacerated wound (CLW) over mid-line of neck. Size of injury is 7x 0.5. x 0.5 cm. The weapon was not mentioned before the doctor. The history was a “an assault by a friend on the neck”.

5. Upon perusal of the injury certificate and the facts of the case, the

Applicant deserves to be enlarged on bail. The observations are prima facie in nature and shall not be considered for discharge application or at the time of trial. Hence, the following order:

ORDER

- (i) Application is allowed.
- (ii) The Applicant be enlarged on bail on furnishing P.R. Bond in the sum of Rs.25,000/- and one or more sureties in the like amount.
- (iii) The Applicant shall co-operate with the investigating agency, as and when called.

Bail Application stands disposed of in the aforesaid terms.

[SMT. SADHANA S. JADHAV, J.]

Vaishali
Anil Tikam

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