

***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 15 OF 2018***

Nilesh Raju Bhame	...Applicant
Versus	
The State of Maharashtra	...Respondent

Mr.Satyavrat Joshi, for the applicant.
Ms.Veera Shinde,APP, for the State.
Mr. Sanjay P. Shondge, H.C. Haveli Police Station present.

***CORAM : SMT. SADHANA S.JADHAV, J.
DATE : 22nd January, 2018.***

P.C. :

1. Heard. This is an application under Section 439 of Cr.P.C. The applicant herein is arrested on 16.8.2017 in Crime No.253 of 2017 registered at Haveli Police Station, Pune Rural, Dist. Pune for the offences punishable under Sections 302,201, 307, 143, 147, 148, 149, 120B of the Indian Penal Code and under Sections 3, 4 (25) read with section 135 of the Maharashtra Police Act.

2. It is the case of the prosecution that on 14.8.2017, one Vishal Shelke had lodged a report at the police station alleging therein that he

happens to be a good friend of Swapnil Deshmukh who was a known goon in the said area. That on 13.8.2017, the first informant along with Swapnil had been to Sinhagad for trekking. When they descended from the Fort, they were having a party. They had consumed alcohol. They were at Kedarashwar Farm House. That they had met Mangesh Koditkar. Swapnil and Mangesh were on cross terms. At about 7.15 p.m. they had ordered for some food. Suddenly Mangesh had appeared at the farm house along with 6 – 7 persons who were armed with deadly weapons like chopper, sickle and a revolver. That they had all mounted assault upon Swapnil Deshmukh. He had succumbed to the injuries on the spot. The post-mortem notes would indicate that Swapnil was almost butchered to death. He had sustained as many as 47 injuries.

3. As far as the present applicant is concerned, the only role attributed to the applicant is that one motorcycle was recovered at the instance of Ganesh Chormale. The said motorcycle was driven by Somnath Kank at the time of incident who happens to be one of the assailants of Swapnil Deshmukh. Hence, according to the prosecution, the said motorcycle was left with Ganesh Chormale by the present applicant and that he had attempted to cause disappearance of evidence as far as the

vehicle of Somnath was concerned. The said motorcycle is not registered in the name of the present applicant. That the applicant was subjected to test identification parade. According to the learned APP, he was identified by Dnyaneshwar Bhosle. However, no specific role was attributed to him.

4. As against this, the learned counsel for the applicant submits that in fact, the deceased was in the company of the first informant i.e. Vishal Shelke and he has not identified the accused.

5. Taking into consideration the fact that the presence of the applicant at the scene of offence is doubtful, the applicant deserves to be enlarged on bail.

6. It is made clear that the above 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/- and one or more solvent sureties in the like amount.
- (iii) The applicant shall not reside within the jurisdiction of Haveli

Police Station till the conclusion of the trial.

(SMT. SADHANA S.JADHAV, J.)