

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

CRIMINAL BAIL APPLICATION NO. 77 OF 2018

Sumit @ Bunty Sudhir Sonavane. ... Applicant.
Versus
The State of Maharashtra. ... Respondent.

Mr. Balasaheb Ramchandra Deshmukh, advocate for Applicant.

Ms. S.S. Kaushik, APP for State.

**CORAM : SMT.SADHANA S. JADHAV,J
DATE : JANUARY 24, 2018**

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 8/12/2017 in
Crime No. 903 of 2017 registered at Indapur Police Station for offence
punishable under section 143, 145, 147, 148, 149, 326, 504, 506, 427
of the Indian Penal Code and 135 of the Mumbai Police Act.

3 It is the case of the prosecution that on 9/12/2017 Shashikant Salunke lodged a report at the police station alleging therein that on 8/12/2017 he was accompanied by his friend and were proceeding to Indapur to meet Tanaji Jadhav, who is the original resident of Karmala, District Solapur. They were travelling in a Indica car. That Tanaji Jadhav was to attend party of one Bhayya Bandgar. When the complainant reached Akluj Chowk, they saw 20 to 22 persons proceeding towards them on their motor cycle. The complainant enquired as to whether it was a rally of Tanaji Jadhav. At that juncture, the complainant and his friends were abused by the said persons. One unknown person had come forward and informed the complainant that he happens to be "Dada" of Indapur and expressed his associates that the complainant belongs to group of Tanaji Jadhav. The said persons mounted assault upon the complainant and his friends. One person from the said group had inflicted stone injuries upon the complainant and his friends. The present applicant was apprehended on the spot on the basis of the description given by the complainant. It is in these circumstances that the presence of the

applicant at the relevant time at the spot mentioned by the complainant is admitted. The complainant had sustained injuries. On the basis of his report, Crime No. 903/2017 was registered.

4 Perused the papers of investigation. It appears that Shashikant was immediately referred to Rutal Hospital, Islampur by the police. He had sustained contused lacerated wounds on left parietal region. CT Scan also does not show that the complainant had sustained any grievous injury. Some of the accused who are alleged to have inflicted stone injuries have been enlarged on bail by the Sessions Court.

5 The learned Counsel for the applicant submits that on the basis of the medical certificate, it cannot be said that an offence under section 326 of the Indian Penal Code is made out. The presence is admitted. The applicant also seeks parity with the co-accused who were enlarged on bail.

6 The learned APP vehemently submits that the applicant has criminal antecedents such as Crime Nos. 39/2013, 112/2013, 46/2017 registered at Indapur Police Station and Walchand Nagar Police Station. It is also submitted that the applicant, in the eventuality of being enlarged on bail would create problems for law and orders situation.

7 However, taking into consideration the papers of investigation, this Court is inclined to grant bail to the applicant on imposing certain stringent conditions.

8 However, it is made clear that the observations made hereinabove are prima facie and are restricted to the application under section 439 of the Code of Criminal Procedure, 1973 and the learned trial court shall not be influenced by the same at the time of trial.

9 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. 50,000/- and one or more solvent sureties in the like amount.
- (iii) The applicant shall not reside in Indapur till framing of charge.
- (iv) The applicant shall report to Baramati City Police Station, since the applicant is going to reside in Baramati till framing of charge.
- (v) The applicant shall not tamper with the evidence.
- (vi) In the eventuality that there is breach of conditions, the prosecution would be at liberty to file an application under section 439(2) of the Code of Criminal Procedure, 1973.

10 The application is disposed of accordingly.

(SMT. SADHANA S. JADHAV,J)