

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 292 OF 2018

Sadanand Bhaskar Shinde. .. Applicant.

V/s.

The State of Maharashtra. .. Respondent.

Mr. Vaibhav V. Ugle, advocate for applicant.

Mr. N.B. Patil, APP for State.

Mr. Shekhar Shinde, API, Waravdi Police Station, Pune City.

CORAM : SMT. SADHANA S. JADHAV, JJ.

DATE : JUNE 18, 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, 1908. The applicant herein is arrested on 30/4/2015 in Crime No. 110 of 2015 registered at Wanwadi Police Station, Pune City. The investigation is completed and charge-sheet is filed.

3 It is the case of the prosecution that on 27/4/2015 one Mohd. Salim Saidu Rahman Mujumdar lodged a report at the police station alleging therein that he was a labourer of Akbarbhaiya. That the

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daughter of Akbarbhaiya was teased by one person called Ekya Shaikh. The first informant and Akbarbhaiya had approached him and had given warning to him not to tease again. However, they nurtured grudge against Akbarbhaiya. On 26/4/2015 when the first informant, Akbarbhaiya and Mohd. Sajjad were on duty as watchman on the construction site of New Front Housing Society. Ekya Shakh, Yogesh Adsule, Amya and Kalim Nadaf had come on motor cycles and mounted assault upon Akbarbhaiya and caused his homicidal death. The applicant was not named in the FIR. The supplementary statement of the first informant was recorded on the next day i.e. 28/4/2015 and he had disclosed that at the time when Akbhabhaiya has been assaulted, he had seen four persons, the applicant being one of the them, who had assaulted Akbarbhaiya with fists and kick blows after he had fallen to the ground. The post mortem notes would indicate that the deceased Akbarbhaiya had died due to head injury. That the deceased had sustained as many as 6 injuries. Injury Nos. 1 and 2 were fatal as they are laceration on parietal region and occipital region. However, rest of the injuries are in the nature of abrasions.

4 The learned Counsel for the applicant submits that the applicant has been falsely implicated. That after the head injury was caused, the applicant is alleged to have assaulted injured with fists and

kick blows. That the similarly placed person have been enlarged on bail and therefore, by virtue of doctrine of parity, the applicant also deserves to be enlarged on bail.

5 As against this, the learned APP submits that the co-accused who are enlarged on bail had no criminal antecedents. That an offence is registered against the present applicant under section 325 of the Indian Penal Code. The applicant therefore, does not deserve to be enlarged on bail.

6 Taking into consideration the role attributed to the present applicant, moreso, that the applicant was not armed with any weapon, he was not the person who had initiated the quarrel or mounted assault and the fact that the similarly placed co-accused are enlarged on bail, the applicant also deserves to be enlarged on bail.

7 The observations are prima facie in nature and shall not be considered for discharge application or at the time of trial.

8 Hence following order is passed :

ORDER

(i) The application is allowed.

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- (ii) The applicant be enlarged on bail on furnishing P.R. Bond in the sum of Rs. 25,000/- with one or more solvent sureties in the like amount.
 - (iii) The applicant shall not tamper with the evidence.
 - (iv) The applicant shall inform his latest place of residence to the concerned police station.
- 9 The application is disposed of accordingly.

[SMT. SADHANA S. JADHAV, J.]