

7- BA 294 of 2018

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

BAIL APPLICATION No. 294 OF 2018

Vinayak Prakash Mane

...Applicant

Vs.

The State of Maharashtra

...Respondent

Mr. Kuldeep S. Patil for Applicant

Mr. N.B. Patil -APP

Mr. B.K. Shaikh, H.C., Sangli City Police Station.

CORAM : SMT. SADHANA S. JADHAV, J.

DATE: JULY 12, 2018

P.C.

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

2. The Applicant herein is arrested on 1st of May, 2017 in Crime No. 92 of 2017 registered at Sangli City Police Station, Dist. Sangli for offences punishable under section 302, 307, 120(B), 143, 147, 148, 149, 323, 504, 506 of the Indian Penal Code and Section 4, 5, 25, 27 of the Indian Arms Act. The investigation is completed and the charge-sheet is filed.

2. It is the case of the prosecution that on 30th April, 2017, Emam Mehboob Shaikh had lodged a report at the police station alleging therein that Ravindra Mane was an externee. Babu Shinde was a person, who had called him at his house and at that spot, police had arrested him for committing breach of externment order.

3. On 30th April, 2018, all of them wanted to celebrate birthday of Rahul Mane, who happens to be the brother of Ravindra Mane. It is alleged that they were going to buy material for celebrations, Borappa Amate was driving the motorcycle and Ravindra Mane was the pillar-driver. It is alleged that the car of Babu Shinde had followed them. Babu Shinde was driving the car. He had given a dash to the motorcycle, thereby both the riders had fallen down and, thereafter, Ravindra Mane had started fleeing from the spot. He was chased by Babu Shinde and two unknown persons, who were his associates and finally Babu Shinde had assaulted Ravindra Mane on his head with a sickle. The witness Borappa Amate had started fleeing from the spot, at that time, he saw two persons seated in the car and once again Babu Shinde chased Borappa and assaulted him with a sickle. The witness had escaped and rushed to the civil hospital.

4. In the course of investigation, Borappa Amate had disclosed to the police

that the two persons accompanying Babu Shinde were not known to him and when Borappa started fleeing from the spot, Babu Shinde had assaulted Ravindra Mane and the two persons seated in the car. The witness's statement was recorded under Section 164 of Cr.P.C. and he had disclosed to the Magistrate that Vinayak Mane and Hrishikesh had alighted from the car and had assaulted Ravindra Mane.

5. Prima facie, it appears that the statement of the witnesses recorded at the first instance and after the arrest of the Applicant, are at variance. They are inconsistent. Moreover, there is no test identification parade to establish that the present Applicant was the person who had alighted from the car and assaulted Ravindra Mane or Borappa Amate.

6. In view of this, Applicant deserves to be enlarged on bail. The co-accused Babu Shinde and Hrishikesh shall not claim parity with the Applicant. The observation made hereinabove, 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.50,000/- and one or more solvent sureties in the like amount.

- (iii) The Applicant shall not reside within the jurisdiction of Sangli City Police Station till commencement of the trial and within four weeks from the date of his being released on bail, the Applicant shall furnish his address, cell phone number etc. to the investigating agency and give an undertaking that he would attend all the scheduled dates before the Court.

Application for bail stands disposed of in the aforesaid terms.

[SMT. SADHANA S. JADHAV, J.]