

1- BA 337 of 2018

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

BAIL APPLICATION No. 337 OF 2018

Saurabh Sunil Shinde	...Applicant
Vs.	
The State of Maharashtra	...Respondent

**WITH
CRIMINAL APPLICATION No. 214 OF 2018
IN
BAIL APPLICATION No. 337 OF 2018**

Yogesh Shankar Shelar	...Applicant
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In the matter between

Saurabh Sunil Shinde	...Applicant
Vs.	
The State of Maharashtra	...Respondent

Mr. A.P. Mundargi, Senior Counsel i/b. Mr. Satyam H. Nimbalkar for Applicant
Mr. Nitesh V. Bhutekar for Intervenor
Mr. S.R. Agarkar -APP
Mr. S.P. Gavate, Havildar, Crime Branch, Unit-4, Pune

CORAM : SMT. SADHANA S. JADHAV, J.
DATE: JUNE 20, 2018

P.C.

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

2. The Applicant herein is arrested on 2nd of July, 2017 in Crime No. 265 of 2017 registered at Sangavi Police Station, Pune for the offence punishable under Section 307, 120B and 34 of the Indian Penal Code and section 3,5 r/w. 25 and 27 of the Arms Act. The investigation is completed and the charge-sheet is filed.

3. It is the case of the prosecution that on 24th June, 2017, one Yogesh Shankar Shelar was admitted in Jems Hospital at Pune due to bullet injury. After he has regained his consciousness, as it was the medical case, his statement was recorded and he had disclosed to the police that on 24th June, 2017, he had been to Tuljabhavani temple to offer his prayer by his car. That the car was driving by his driver. He had alighted from the car and had been to the temple. When he was returning, he suddenly realized that he has been shot on left thigh. He had seen two persons at about a distance of 7 feet away from him and the said two persons were attempted to kill the complainant. He had heard the assailants saying that Aditi had asked them to shoot at the head of the victim. He was chased from some distance. However, he had rescued himself and he

had seen the two assailants fleeing from the spot on the motorcycle. He had candidly stated that he was sure that it was Aditi, who had planned to eliminate him. The motive is that his sister Jayeshree was having illicit relationship with Kailash Gaikwad i.e. the father of Aditi. He has also stated that 5 years prior to 24th June, 2017, Aditi had asked her brothers Sarvesh Jadhav and Sunil Shinde to assault the complainant with a sword. That father of Aditi happens to be a politician and according to the Complainant, he aided Aditi in the politics.

4. It is apparent from the record that there were two assailants and there was no one at the spot. As far as the Applicant is concerned, it appears that he happens to be a maternal cousin of Aditi. Kailash Gaikwad, happens to be his uncle. It is the case of the prosecution that the Applicant had aided and assisted Aditi to hatch the conspiracy to eliminate the complainant. The prosecution has placed a reliance on the statement of one Bhushan Patil, which was recorded on 28th July, 2017 i.e. practically after two weeks after the arrest of the Applicant. He had disclosed to the police that the present Applicant happens to be his neighbor. That he was also acquainted with Aditi. On 28th May, 2017, the Applicant had allegedly taken two Sim cards in the name of Bhushan Patil. He had given one Surabh Shinde and Aditi and other Sim Card to Ashitosh @ Bunty Mapare, who happens to be the friend of Aditi. In the course of

investigation, he was aware that Aditi and Ashitosh Mapare were using the Sim cards in his name.

5. The learned APP submits that the Applicant herein is the friend of Ashitosh Mapare, who had hatched conspiracy and hired the boys, who had the criminal antecedents to eliminate the Complainant i.e. Yogesh Shelar. As on today except the fact that the Applicant had made about 100 calls to Aditi which would be sufficient to show that he had active role to play in the conspiracy.

7. As against this, the learned counsel for the Applicant submit that in fact, the Applicant happens to be the cousin of Aditi. That Aditi is enlarged on bail. That there cannot be any objection to Applicant frequently calling Aditi.

8. Be that as it may, the Applicant has been in custody for about one year and charge-sheet is filed.

9. The learned APP has submitted that the persons who were hired to eliminate Yogesh are from Satara. They had criminal antecedents. They were Akshay Shevate, Girish Dalvi, Bunty Jadhav and Mithun Ghadge. Out of these persons, two of them were assailants, who had, in fact, directly conversed in such a manner to depict that they were hired by Aditi and the Complainant purportedly heard their conversation that they are bound to follow the

instructions of Aditi. In any case, there is overt act attributed to them that they are original residents of Satara and, therefore, since the overt act is attributed to them and the papers of investigation reveal that they had criminal antecedents and, therefore, they cannot claim parity with the Applicant. The observations made hereinabove are prima facie in nature and are restricted only for the application filed under section 439 of Cr.P.C. and shall not be taken into consideration at the time of deciding the application for discharge or at the time of trial. Hence, the following order:

ORDER

- (i) The bail application is allowed.
- (ii) The Applicant be enlarged on bail on furnishing P.R. Bond in a sum of Rs.50,000/- and one or more solvent sureties in the like amount.
- (iii) The Applicant shall not enter into the jurisdiction of Sangavi Police Station, Pune till conclusion of the trial.
- (iv) The Applicant shall furnish his address, cell phone number and other details to the police within two weeks from the date of his release. The

Applicant shall also give an undertaking to this Court as well as to the Sessions Court that upon commencement of the trial, he would not seek exemption on unwarranted ground.

Bail application stands disposed of in the aforesaid terms.

[SMT. SADHANA S. JADHAV, J.]