

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 589 OF 2018

Mandar Mangesh Yadav. .. Applicant.
V/s.
State of Maharashtra. .. Respondent.

Mr. Kuldeep S. Patil, advocate for applicant.

Mr. Y.Y. Dabake, APP for State.

CORAM : SMT. SADHANA S. JADHAV,J.

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 21/9/2017 in Crime No. 195 of 2017 registered with Khopoli Police Station, District-Raigad for offence punishable under section 323, 324, 506 read with section 34 of the Indian Penal Code. However, section 307 of the Indian Penal Code is subsequently added. Investigation is completed and charge-sheet is filed.

2 It is the case of the prosecution that one Babasaheb Mohite-Patil lodged a report at the police station alleging therein that on 18/9/2017 at about 11 p.m. when the complainant was sleeping, his

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daughter woke up him, as she heard some noise. He went outside and saw Nilesh Kalokhe alongwith another person assaulting the cousin of the complainant by fists and kick blows and punches. It is also alleged that he was assaulted by means of stones. The complainant had attempted to intervene and he was deterred from doing so. Thereafter, the assailants had left the spot.

3 The learned Counsel for the applicant has drawn attention of this court to the statement of one Sandesh Sawant, who has disclosed that on 18/9/2017 he had seen Nilesh Kalokhe in the premises of the police station. Upon enquiry Ankush Hadap had informed him that Nilesh Kalokhe was brought by the police. It is alleged that thereafter, when Sandesh Sawant and others were having breakfast, Nilesh accompanied by Mandar Yadav had approached them and they mounted assault on Raju Jadhav. Nilesh Kalokhe was questioned and being annoyed Mandar Yadav had drawn iron rod from his pant pocket and assaulted Sandesh Sawant. Injury certificate of Sandesh Sawant shows that he had sustained two grievous injuries on his frontal and parietal region and 8 simple injuries.

4 It is submitted that prima facie, it would be an offence under section 325/326 of the Indian Penal Code and section 307 of the Indian Penal Code would not be attracted. It is also submitted that the

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applicant has no criminal antecedents. The learned APP submits that this is a second offence registered against the applicant under section 307 of the Indian Penal Code.

5 Taking into consideration the fact that the investigation is completed and charge-sheet is filed and that the applicant is in custody since 9 months, the applicant deserves to be enlarged on bail.

6 The observations are restricted to the application under section 439 of the Code of Criminal Procedure, 1973 and shall not be taken into consideration for discharge application or at the time of trial.

7 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/- with one or more solvent sureties in the like amount.

(iii) The applicant shall not tamper with the evidence.

8 The application is disposed of accordingly.

[SMT. SADHANA S. JADHAV, J.]

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