

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

**BAIL APPLICATION NO.624 OF 2018
ALONGWITH
CRIMINAL APPLICATION NO. 463 OF 2018**

Mangesh Digambar Survase		Applicant
<u>Vs.</u>		
The State of Maharashtra		Respondent

Mr. Satyavrut Joshi for the Applicant.
Mr. S.H. Yadav, APP for the State.
Mr. Vaibhav V. Ugale for Intervenor.

Coram : Smt. Sadhana S. Jadhav, J.
Date : 28th June, 2018

P.C.:

1 Heard the learned counsel for the applicant and the learned APP.

2 This is an application under Section 439 Code of Criminal Procedure. On 14th October 2016, Vishal Gaikwad was admitted in Sasoon Hospital as he had sustained several injuries. Being a medico legal case, the statement of Vishal Gaikwad was recorded. He disclosed to the police that on 14th October 2016 at about 2.00 pm.,

when he was sleeping with his nephew Manas, suddenly he heard a thumping sound on the door. That they were asked to open the door. Within no time, the window and door were smashed and three persons had entered into the room. The present applicant and Pappu Kudake were the two persons who had entered into his room. Both were armed with deadly weapons like sickle and iron rod. That Pappu Kudake had assaulted the first informant on his head, whereas the present applicant had also joined him in assaulting the first informant. Thereafter the first informant was assaulted with fists and kicks blows and thereafter two persons had fled from the spot. It is alleged that they had also assaulted Vinod and the other persons, who had intervened to pacify.

3 The applicant was arrested on 17th October, 2016, investigation is completed and charge-sheet is filed. Perused the compilation of the charge-sheet, more particularly the injury certificate, which shows that the first informant had sustained a bleeding head injury and multiple blunt injuries on his body. He was referred for C.T. scan of brain, which shows that there was “hypo-

dense collected noted in left external auditory canal”. Upon perusal of the statement of the injured and other witnesses, it is clear that it was Pappu, who had assaulted the first informant on his head and the applicant in all probabilities was the author of the blunt trauma and the other contused lacerated wounds, which were simple in nature. The applicant has been in custody for almost more than 1½ years, hence, the applicant deserve to be enlarged on bail. The co-accused Pappu shall not claim parity with the present applicant.

4 Learned counsel for the Intervenor has vehemently submitted that the applicant does not deserve to be enlarged on bail as he is the author of grievous injuries and in the eventuality that the informant was not treated at the right time, the injuries could have turned fatal and therefore he does not deserve to be enlarged on bail.

5 Taking into consideration the papers of investigation more particularly the medico legal certificates and the fact that the applicant has been in custody for more than 1½ years, the applicant deserve to be enlarged on bail.

6 The observations are restricted to the application under Section 439 of Cr.P.C. and shall not be taken into consideration for the purpose of discharge application or at the time of trial. Hence, the order :

ORDER

- i) The application is allowed.
- ii) The applicant be enlarged on bail in Crime No. 444 of 2016, registered at Chatushrungi police station, 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, within four weeks from the date of release shall furnish his residential address, cell-phone number and other details to the investigating officer.
- iv) The applicant herein shall not enter into the jurisdiction of Chatushrungi police station till the conclusion of the trial.
- v) The Intervention Application is heard, allowed and disposed of.

(*Smt. Sadhana S. Jadhav, J*)