

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

BAIL APPLICATION No. 868 OF 2018

Rajaram @ Raju Dattatray @ Shashikant Shinde ...Applicant
Vs.
State of Maharashtra ...Respondent

**ALONG WITH
CRIMINAL APPLICATION No. 476 OF 2018
IN
BAIL APPLICATION No. 868 OF 2018**

Atul Nishikant Shinde ...Applicant
In the matter between

Rajaram @ Raju Dattatray @ Shashikant Shinde ...Applicant
Vs.
State of Maharashtra ...Respondent

Mr. Ritesh Thobde for Applicant
Mr. B.A. Lawate for Intervenor
Mr. Prashant Jadhav – APP
Mr. Vasudeo B. Gurav, H.C., Belapur Police Station , Solapur (Gramin)

CORAM : SMT. SADHANA S. JADHAV, J.
DATE: JUNE 11, 2018

P.C.

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

2. The Applicant herein is arrested on 9th August, 2017 in Crime No. 171 of 2017 registered at Velapur Police Station, District Solapur for the offences punishable under section 302, 307, 323, 504, 506 r/w. 34 of the Indian Penal Code and under the provisions of the Arms Act. The investigation is completed and the charge-sheet is filed.

3. It is the case of the prosecution that on 9th August, 2017, the first Informant i.e. Atul Nishikant Shinde lodged a report at the Velapur Police Station alleging therein that the father of the present Applicant happens to be his paternal uncle i.e. brother of Nishikant Sinde. That there are civil dispute between both the families over a piece of land. The land is out of Gat No. 114 at Velapur. A suit is filed by the father of the present Applicant, who happens to be the Original Accused No.1 in the present case.

4. It is the case of the prosecution that on 9th August, 2017, when Ajay and Atul were undertaking cultivating operations, Dattatraya, who happens to be the father of the present Applicant, had objected to the same. There were altercations. Shashikant had intervened to pacify them. In the meanwhile, Dattatraya had gone to his house and had returned with a gun and threatened Shashikant for intervening in their quarrel. In the cross altercation, he had fired at Shashikant and Shashikant had fell on the ground and succumbed to the

injury instantaneously. Upon seeing the incident, Ajay had tried to leave from the spot and at that time, the present Applicant had snatched the revolver from Dattatraya and had attempted to chase Ajay. He had also threatened to kill Ajay. But Ajay had escaped.

5. By an order dated 5th February, 2018, the co-accused Sanjay Dattatray Shinde, who happens to be the brother of the Applicant was enlarged on bail. It is a matter of record that there was an altercation between Nishikant on one side and Ajay and Atul on the other side, wherein Shashikant had intervened. Thereafter, Dattatraya, who happens to be the father of the accused, had also intervened and then shot at Shashikant. At this stage, it cannot be said that the accused Rajaram or Sanjay had any knowledge that their father would return at the spot with revolver and shoot Shashikant. In these circumstances, this Court is of the opinion that the Applicant deserves to be enlarged on bail.

6. The learned counsel appearing for the Original Complainant vehemently submits that the role assigned to Sanjay is different than the role assigned to the present Applicant. In the sense that the present Applicant had snatched the gun from his father and had followed Ajay, whose statement was recorded on 10th August, 2017 and had attempted to cause his death.

7. As against this, the learned counsel for the Applicant submits that as per

the version of the complainant Ajay had fled from the spot as soon as Shahshikant was shot.

8. Taking into consideration, the fact that Sanjay has been enlarged on bail, more over, there is no specific act attributed to the present Applicant except that he had chased Ajay, this Court is of the opinion that the Applicant deserves to be enlarged on bail. However, the observations made hereinabove are prima facie in nature and restricted only to the present Application filed under Section 439 of the Criminal Procedure Code and shall not be taken into consideration while deciding the application for discharge or at the time of trial. Hence, the following order:

ORDER

- (i) Bail application is allowed.
- (ii) The Applicant be enlarged on bail on furnishing the P.R. Bond in the sum of Rs.25,00/- and one or more solvent sureties in the like amount.
- (iii) The Applicant shall not enter into the jurisdiction of Malshiras except for attending scheduled dates before the Sessions Court till the conclusion of the trial.

Bail application is disposed of in the aforesaid terms.

The Intervention application No. 476 of 2018 is heard, allowed and disposed of accordingly.

[SMT. SADHANA S. JADHAV, J.]