

11- BA 1136 of 2018

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

BAIL APPLICATION No. 1136 OF 2018

Mr. Akshay Eknath Kanade

...Applicant

Vs.

The State of Maharashtra

...Respondent

Mr. Vaibhav Ugle for Applicant

Mr. Rajan Salvi -APP

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 16th November, 2017 in Crime No. 323 of 2017 registered at MIDC Police Station, Pune City Police Station for offences punishable under section 394, 397 r/w. 34 of the Indian Penal Code. The investigation is completed and the charge-sheet is filed.

3. It is the case of the prosecution that on 11th November, 2017, Govind Bhosale lodged a report at the police station alleging therein that while he was

returning home on 11th November, 2017, suddenly two people had followed him on their motorcycle and had demanded his cell phone. Upon his refusal to hand over the cell phone, they had assaulted him with a knife on his head , chest and thighs and had fled with the cell phone.

4. In the course of investigation, it had transpired that the co-accused in the present case are Samir Pathan and Omkar Karsule. That on 17th November, 2017, the statement of one Pratik Chavan had recorded and he had disclosed to the police that the present Applicant had been to his fruit stall along with his friend omkar. They had purchased fruits. They had credit facility with Pratik Chavan. When the money was demanded by Pratik Chavan, they had given him the said cell phone on 13th November, 2017 i.e. within the 2 days after the incident.

5. The learned counsel for the Applicant submits that the Applicant is hardly 19 years' old. That the cell phone was handed over to him by another friend and he was not the person, who had assaulted the complainant.

6. The Applicant has not been identified by the complainant in the test identification parade.

7. The learned APP, upon instructions, submits that the Applicant has no criminal antecedents.

8. In view of this, the Applicant deserves to be enlarged on bail. The observations 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.25,000/- and one or more sureties in the like amount.
- (iii) The Applicant shall mark his presence at MIDC Police Station on every Sunday till framing of the charge. Upon failure to attend any three consecutive dates, the prosecution is at liberty to file an application under section 439(2) of Cr.P.C.
- (iv) The Applicant shall give an undertaking to the Sessions Court that he shall attend each and every scheduled date.

Bail Application stands disposed of in the aforesaid terms.

[SMT. SADHANA S. JADHAV, J.]