

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 1167 OF 2018

Kishor Sanjay Dhore.

...Applicant

v/s.

The State of Maharashtra.

...Respondent.

Mr. Kuldeep Patil I/b. Mr. Prashant S. Hagare, advocate for applicant.

Mr. N.B. Patil, APP for State.

Mr. Dattatray B. Bhosale, PSI, Baramati Taluka Police Station, Pune (Gramin).

CORAM : SMT. SADHANA S. JADHAV,JJ.

DATE : JUNE 12, 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, 1973. The applicant herein is arrested on 6th December, 2017 in Crime No. 30 of 2017 registered at Baramati Taluka Police Station for the offence punishable under section 326, 323, 143, 147, 149, 504 of the Indian Penal Code. The investigation is completed and charge-sheet is filed.

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3 It is the case of the prosecution that on 21/1/2017 all the accused have assaulted the complainant Jalinder Baban Kale and others by deadly weapons like sticks and iron rod. The present applicant is alleged to have assaulted one Somnath Shitole with iron rod.

4 The incident is dated 21/1/2017. Learned APP submits that there are criminal antecedents, in as much as five offences are registered against the applicant at Baramati City Police Station, four out of which are registered under section 324 of the Indian Penal Code, whereas Crime No. 551 of 2017 is registered under section 394 read with section 34 of the Indian Penal Code. The learned APP submits that the applicant was absconding for almost one year and therefore, he does not deserve to be enlarged on bail.

5 Perused the papers of investigation. The first information report is lodged by Jalinder Kale. In the course of investigation, the statement of Somnath Shitole is recorded. According to Somnath, he was assaulted by Sukhdev Badalkar with iron rod. Rahul Dabar had assaulted on his back whereas the present applicant had assaulted him on his hands and on his head. Perused the injury certificate, which shows that the injured Somnath Shitole had sustained five simple injuries. There are two contusions on his left knee joint and middle

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finger, one abrasion on his right knee, one sutured contused lacerated wound on his occipital region which is about 4 cm. and is described as simple injury and a sutured CLW over vertex, which is also simple injury. The applicant has been in custody for more than 6 months in the present case.

6 Taking into consideration, the papers of investigation and the submissions advanced across the bar, this Court is of the opinion that the applicant deserves to be enlarged on bail on imposing certain conditions. Learned APP submits that the other accused are still absconding. They shall not claim parity with the present applicant in any manner.

7 However, it is made clear that the above prima facie observations are restricted to the application under section 439 of the Code of Criminal Procedure, 1973. The trial court shall not be influenced by the same at the time of deciding discharge application or at the time trial.

8 Hence, the following order is passed :

ORDER

(i) The application is allowed.

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- (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.
 - (iv) The applicant shall not reside in Baramati Jurisdiction till July, 2019.
- 9 The application is disposed of accordingly.

[SMT. SADHANA S. JADHAV, J.]