

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 1267 OF 2018**

Mansur Gulab Nurewale. ...Applicant

v/s.

The State of Maharashtra. ...Respondent.

Mr. Viresh V. Purwant, advocate for the applicant.

Ms. Veera Shinde, APP for State.

Mr. J.R. Jadhav, API, Bibvewadi Police Station.

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, 1908. The applicant herein is arrested on 12th February, 2018 in Crime No. 45 of 2018 registered at Bibvewadi Police Station, Pune for offence punishable under section 307, 143, 147, 148, 149, 506 of the Indian Penal Code and under section 4 read with 25 of the Arms Act. Investigation is completed and charge sheet is filed

3 It is the case of the prosecution that one Kisan Vinay Pathak

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lodged a report at the Bibvewadi Police Station on 12/2/2018 alleging therein that on 11/2/2018 Mansur Gulab Nurewale i.e. the present applicant had been to his pan stall at about 9.30 p.m. He was accompanied by Yasin Mulla and others. It is also alleged that they were armed with deadly weapons like iron pipe. There was some altercation between them. Since just four days' prior to the said incident, the present applicant had threatened him to change the location of his pan stall and since he had not obliged, he was assaulted by the present applicant and his associates. On the basis of the said report, offence was registered. He was taken to Sassoon Hospital with history of assault. There were injuries in the nature of contusions.

4 The learned Counsel for the applicant submits that in the given circumstances, an offence under section 307 of the Indian Penal Code is not attracted as it does not reflect that there was an attempt to eliminate the complainant. The co-accused are enlarged on bail. But since there was a specific overt act against the applicant, the applicant has been in custody.

5 Taking into consideration the report of the investigation and submissions advanced across the bar, this Court is of the opinion that the applicant has made out a case for grant of bail.

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6 The observations are prima facie in nature and shall not be considered 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 sureties in the like amount.

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

(iv) The applicant shall report to the concerned police station as and when called and cooperate with the investigating agency to the best of his capacity.

8 The application is disposed of accordingly.

[SMT. SADHANA S. JADHAV, J.]