

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO. 1280 OF 2018

Mohd. Kalim Gaffar Shaikh and anr. ...Applicants

V/s.

The State of Maharashtra

....Respondent

* * * * *

Mr. Sushrat Jadhwar, Advocate for the applicants.

Ms. M.H. Mhatre, APP for the respondent-State.

Coram : Sandeep K. Shinde, JJ.

Wednesday, 19th December, 2018.

P.C. :

1. This application under Section 439 Criminal Procedure Code is preferred in C.R. No. 23 of 2018 registered with Ghatkopar Police Station on 16th January, 2018 at the instance of injured, Jaiprakash Chaubey. It is alleged that applicant no.2 had outraged the modesty of the sister-in-law of the complainant and when he questioned the applicants, he was assaulted with a sharp weapon. There are four accused. Two released at the remand stage. The application preferred by these applicants was rejected by

the learned Sessions Judge for Greater Bombay at Bombay on 24th April, 2018.

2. Heard the learned Counsel for the applicant and the learned APP for the State. The chargesheet in this case has been filed.

3. The alleged incident had taken place on 15th January, 2018 wherein the applicant inflicted injuries on the complainant by a knife and a chopper. Though it is alleged in the complaint that applicant no.1 had inflicted two injuries on the neck of the complainant, the injury Certificate shows that there was only one injury on the neck of the complaint. Be that as it may, the injury Certificate issued by the LT&NT Hospital shows that the complainant had received four injuries; out of which three were simple and one was grievous. It was an incised wound inflicted by a sharp weapon on the anterior of the neck. The injured was admitted in the hospital on 16th January, 2018 and discharged on 17th January, 2018.

4. The learned Counsel appearing for the applicant submitted that the age of the applicants is hardly 19 years and had not indulged into any criminal activity in the past.

They were arrested on 16th January, 2018 and since then they are in jail. He has also pointed the statement of one of the eye witnesses recorded on 20th January, 2018 which is at page 23A of the application. It is silent about the alleged incident of outraging the modesty of the sister-in-law of the complainant. As against this, the learned APP has submitted that the statement of other three witnesses whose statements are at page-23, 24 and 25 gave a detailed account of the incident including that of outraging the modesty of the sister-in-law of the complainant as alleged.

5. I have perused the chargesheet and the statement of the witnesses and the injury certificate. It cannot be overlooked that, though the complainant has alleged that applicant no.1 had inflicted two injuries by knife, however, in the medical certificate there is only one injury on the neck. Besides, one of the eye witness is completely silent about the allegation of outraging the modesty of the sister-in-law of the complainant by the applicants. The applicants do not have any criminal antecedents. They are in custody since 16th January, 2018. That since investigation is over and trial is not likely to

commence in the near future, I am inclined to grant this application and hence the following order :

- (i) The application is allowed.*
- (ii) The applicants are directed to be released on bail on their executing P.R. Bond of Rs. 50,000/- each with one or more sureties in the like amount.*
- (iii) The applicants shall submit their addressed and contact numbers to the Investigating Officer within one week from today.*
- (iv) The applicant shall not change their residence without first informing the Investigating Officer.*
- (v) The applicant shall not influence the prosecution witness in any manner.*
- (vi) With the above directions, the application is disposed off.*

(SANDEEP K. SHINDE, J)