

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 1671 OF 2018**

Omkar Annasaheb Bankhele.

..Applicant.

V/s.

The State of Maharashtra.

..Respondent.

Mr. Abhaykumar Apte, advocate for applicant.

Ms. Pallavi Dabholkar, APP for State.

Mr. N.D. Naikade, P.N. present in the court.

CORAM : SMT. SADHANA S. JADHAV,J.

DATE : OCTOBER 31, 2018.

P. C. :

1 Heard the learned Counsel for the applicant and the learned APP for State.

2 This is subsequent application under section 439 of the Code of Criminal Procedure, 1908 seeking enlargement on bail. The learned Counsel for the applicant submits that the case is based on no evidence, in as much as the statement of all witnesses would indicate that they were given information about the incident by the investigating machinery.

3 The learned AGP has submitted that two cell phones were seized from the possession of the present applicant. One of the cell

Talwalkar

phone number-7397913593 had video shooting of the entire incident of assault. The said cell phone is seized and sent to forensic laboratory on 25/5/2017. The writer who was the party of the investigating agency is present in the court and submits that he had seen the video clip.

4 The learned Counsel for the applicant submits that the incident is dated 4th March, 2017. The cell phone was seized within a short interval. However, the same is sent to Forensic Laboratory on 25/5/2017 and the report is not yet received. In any case, the said video film cannot be relied upon unless appended by certificate under section 65(b) of the Indian Evidence Act. The learned Counsel for the applicant upon reading the contents of the forwarding letter to Forensic Science Laboratory submits that the investigating officer was not sure as to whether there was a recording.

5 Be that as it may, since the video clip would be treated as primary evidence in the eventuality that it is substantiated by the person who saw it, this Court is not inclined to enlarge the applicant on bail. However, taking into consideration the nature of the accusation and the fact that the applicant is facing prosecution under section 302 of the Indian Penal Code, the trial needs to be expedited. Hence, the application sans merit stands rejected.

Talwalkar

6 The learned Sessions Judge seized with Sessions Case No. 74 of 2017 Rajguru Nagar, shall make every endeavour to conclude the recording of evidence in the present case within 4 months from the date of framing of charge.

7 The application is disposed of accordingly.

[SMT. SADHANA S. JADHAV, J.]