

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

BAIL APPLICATION NO.1831 OF 2018

Sachin Shersingh Bavri	...Applicant
Versus	
The State of Maharashtra	...Respondent

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Mr. Subhash Jha with Ms Ankita Pawar I/b. M/s. Law Global Advocates for the Applicant.

Mr. N.B. Patil, APP for the Respondent -State.

Mr. Asaram E. Shete, Asst. Police Inspector, Wanwadi Police Station, Pune City, present.

CORAM : SMT. ANUJA PRABHUDESSAI, J.

DATED: 6th SEPTEMBER, 2018.

P.C.:-

This is an application under Section 439 of the Cr.P.C. filed by the aforesaid Applicant, who has been arrested in C.R. No.109 of 2018 registered with Wanwadi Police Station, District-Pune, for the offences punishable under Sections 143, 144, 147, 148, 307, 324, 326, 504 and 506(2) of the IPC, Sections 3, 25, 25(4) of the Arms Act and Sections 37(1)(3) and 135 of the Maharashtra Police Act.

2. Heard Mr. Subhash Jha, the learned counsel for the Applicant. He submits that there is no prima facie material to show that co-accused was armed with a gun or that he had fired the gun. He

further submits that the only role attributed to the Applicant is that he had assaulted the first informant with kicks and blows. He further submits that most of the injuries sustained by the first informant and others were simple in nature. He submits that there is no prima facie material to indicate that the Applicant had caused or attempted to cause injuries which were likely to cause death.

3. Mr. N.B. Patil, the learned APP for the Respondent -State contends that there is prima facie material to show that the Applicant was a member of an unlawful assembly. He further contends that the Applicant has criminal antecedents and is therefore, not entitled for bail.

4. Perused the records and considered the submissions advanced by the learned counsels for the respective parties.

5. The aforesaid crime was registered pursuant to the first information report lodged by one Ujalasingh Prabhusingh. A perusal of the FIR prima facie reveals that on 13th March, 2018 at about 11.00 p.m. one Jakisingh Jalindersingh Kalyani, Makhhsingh Kalyani, Hukumsing Didisingh Kalyani and others including the Applicant

herein had entered his house. He had claimed that Didisingh was holding a sickle, Vikisingh was armed with a gun and Jakisingh Jalindersing was holding an iron pipe. He had claimed that Vikisingh Jalindersing had fired a gun at him. There are also allegations that the co-accused had assaulted him by koyta, iron rod, etc. The allegation against the Applicant is that he had assaulted them with kicks and blows.

6. It may be mentioned that the investigating agency has not recovered a gun from any of the accused persons. Similarly no empty cartridge was recovered from the scene of offence. There is thus no prima facie material to show that the accused had fired a gun. The medical report prima facie reveals that except a fracture on right tibia sustained by the first informant, the other injuries were simple in nature. As regards the role of the Applicant, he was involved only in assaulting with kicks and blows.

7 The nature of allegations levelled do not warrant further incarceration. Considering that the Applicant has criminal antecedents, Shri Subhash Jha, the learned counsel for the Applicant submits that the Applicant will file an undertaking before the Trial

Court that he will not interfere with the complainant or his family members or any other witnesses and that he will not indulge in any criminal activity. Statement is accepted.

8. Considering all the above facts and circumstances and also in the light of the statement made by the learned counsel for the Applicant, the application is allowed on following terms and conditions:-

- (i) The Applicant is ordered to be released on bail on furnishing bail bonds of Rs.50,000/- with one or two solvent sureties in the like amount to the satisfaction of the learned Additional Sessions Judge, Pune.
- (ii) The Applicant shall report to the Wanwadi police station on first day of every month until further orders.
- (iii) The Applicant shall furnish his permanent as well as temporary address, if any, and his contact details to the concerned Investigation Officer.
- (iv) The Applicant shall not change his residential address without prior intimation to the concerned Investigation Officer.

(v) The Applicant shall not interfere with the first informant, his family members and witnesses in any manner.

(vi) An undertaking to the aforesaid clauses (ii) to (v) shall be filed by the Applicant in the trial court prior to his release on bail.

9. Suffice it to say that the observations, which are recorded whilst disposing of the application shall not be construed as an expression on merits.

(SMT. ANUJA PRABHUDESSAI, J.)

Megha
Shridhar
Parab

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by Megha
Shridhar Parab
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2018.09.10
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