

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

BAIL APPLICATION NO. 1883 OF 2018

Abhijit K. Patole

..Applicant

v/s.

The State of Maharashtra .

..Respondents

Mr. Rahul Kadam for the Applicant.

Mr. S.S.Pednekar, APP for the Respondent/State.

CORAM : ANUJA PRABHUDESSAI,J.

DATED : SEPTEMBER 07, 2018.

P.C.

1. This is an application for bail under Section 439 Cr.P.C. filed by the aforesaid applicant who is arrested in C.R.No. 35 of 2018 registered with Dattawadi Police Station, Pune for the offences under Section 143, 147, 148, 307, 323, 427, 504, 506 r/w. 149 IPC and under Section 4(25) of the Arms Act.

2. Heard Mr. Kadam, the learned Counsel for the applicant and Shri Pednekar, the learned APP for the State.

3. The learned Counsel for the applicant submits that the name of the applicant was not disclosed in the FIR as well as in the supplementary statement of the first informant. He submits that the name of the applicant was disclosed for the first time by Abhijeet Adagale on 19th January, 2018 and that his statement itself shows that he is in enemical terms with the applicant. He further submits that the co-accused Ijaj Isak Shaikh who was also named by the said witness has already been granted bail by this Court (Coram : Sadhana Jadhav, J.) by Order dated 11th July, 2018. He therefore claims that the applicant is entitled for bail on the ground of parity.

4. The learned APP concedes that the name of the applicant was disclosed for the first time by witness Abhijeet Adagale. He also concedes that the Investigating Officer had not sought to establish the identity of the applicant through identification parade.

5. I have perused the records and considered the submissions advanced by the learned Counsels for the respective parties. The records prima facie indicate that the aforesaid crime was registered

pursuant to the FIR lodged by Suraj Kamble who was a first year B.Com student in Shahu College. The FIR prima facie reveals that on 17th January, 2018 at about 11 p.m. while he was talking to his friend near S.T. Colony, one Sonya @ Viraj Khandagale and Monya @ Apurva Khandagale, who are friends of Abhijeet Adagale came along with 10-12 other persons. Said Viraj and others were armed with weapons and they threatened him that they would not keep him alive. Thereafter he tried to inflict injury on his head with koyta (sickle). The first information report further reveals that when he tried to run away from the spot, one of the persons inflicted injury on his back with koyta, he managed to run inside a building. He has stated that the said boys had abused and threatened him and that they had also damaged several vehicles which were parked outside the said building.

6. The medical certificate prima facie reveals that the first informant had sustained three incise wounds which were of grievous nature and caused by sharp pointed weapon.

7. The statement of the first informant vis-a-vis the medical certificate and the other statements of the witnesses prima facie indicate that the co-accused Viraj Khandagale and Apurva Khandagale and 10 -12 others had formed an unlawful assembly, armed with deadly weapons with an object of causing death of the first informant. The material on record prima facie reveals that in persecution of their common object, they had inflicted injuries on the first informant by means of sickle/koyta. The spot panchanama reveals that the members of the said unlawful assembly had damaged several vehicles. Needless to say that the offence committed by the said persons is of serious nature.

8. It is pertinent to note that though the first informant had not named this applicant either in the FIR or in the supplementary statement, he had categorically stated that apart from the two co-accused who are named, 10-12 other persons were involved in the said incident. The applicant was arrested on the basis of the statement of Abhijeet Adagale, which was recorded on 19th January, 2018. For the reasons best known to the Investigating Officer, he has chosen not to get the identity of the applicant established

through Identification Parade, even though the offence is of serious nature.

9. Be that as it may, this Court by Order dated 11th July, 2018 (Coram : Sadhana Jadhav, J.) had granted bail to Ejaj Isak Sheikh, who was also named by the said witness Abhijeet Adagale. The role attributed to the applicant is similar to the role attributed to said co-accused Ejaj.

10. Considering the above facts and circumstances, in my considered view, the applicant would also be entitled for bail on the ground of parity. Hence the Order:-

- (i) The application is allowed;
- (ii) The applicant who is arrested in C.R.No. 35 of 2018 registered with Dattawadi Police Station, Pune, be released on bail on furnishing bail bond of Rs.25,000/- (Rupees Twentyfive Thousand Only) with one or two solvent sureties in the like amount, to the satisfaction of the learned Addl. Sessions Judge, Pune.

(iii) The applicant shall not reside within the municipal limits of Pune for one year.

(iii) The applicant shall, within four weeks, from the date of release, furnish all details regarding his place of residence, his contact numbers, such as landline, cellphone number etc to the concerned Court.

(iv) The applicant shall not tamper with the evidence in any manner.

10. Application is accordingly disposed of.

(ANUJA PRABHUDESSAI, J.)