

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

BAIL APPLICATION NO. 2730 OF 2018

Babalu @ Vishnu Vasant Gavali ..Applicant

v/s.

The State of Maharashtra . ..Respondents

Mr. Vikas Shivarkar for the Applicant.

Mr. Pranav Avhad I/b. Nilesh Tribhuvan for the Intervenor.

Mr.P.N.Dabholkar, APP for the State.

CORAM : ANUJA PRABHUDESSAI,J.

DATED : OCTOBER 24, 2018.

P.C.

1. This is an application under Section 439 Cr.P.C. filed by the aforesaid applicant, who has been arrested in Crime No. 158 of 2016 registered with Lashkar Police Station, Pune for offences under Section 143, 147, 148, 307 r/w. 149 of Indian Penal Code and under the provisions of Section 3, 25 of the Arms Act and Section 37(1) r/w. 135 of Maharashtra Police Act.

2. Heard Mr. Shivarkar, the learned Counsel for the applicant. He submits that the applicant has been falsely implicated in view of the political rivalry. He stated that there is no material to show the

involvement of the applicant in commission of the crime.

3. Ms. Dabholkar, the learned APP contends that the statement of the injured as well as the other eye witnesses prima facie indicate that the applicant herein was involved in the said incident. She further submits that the medical evidence also supports the case of the prosecution. She submits that the applicant has criminal antecedents and that he is not entitled for bail.

4. I have perused the records and considered the submissions advanced by the learned Counsel for the respective parties.

5. The aforesaid crime was registered pursuant to the first information report lodged by one Chetan Yadav, brother of injured Vivek. A perusal of the FIR prima facie reveals that on 15th September, 2016, on the day immersion of Ganesh idol, the applicant along with others entered the procession. It is stated that the applicant was armed with a pistol and that he fired at his brother Vivek. He has stated that 250 to 300 people who were participating in the procession ran helter-skelter and that several people suffered injuries due to the stampede. He has further stated that his brother was admitted in Ruby Hall Hospital. The statement of the injured

also prima facie reveals that the applicant herein had fired a gun shot towards him and that he had sustained injuries. The statements of the other eye witnesses also prima facie indicate that the applicant was armed with pistol and that he had fired a gun shot. The medical certificate prima facie indicates that there was entry as well as exit wound on the lateral part of jaw and that there was also shattered fracture of lower jaw. The doctor has opined that the said injuries were grievous in nature. The medical evidence prima facie supports the case of the prosecution.

6. In the light of the above material, the contention of the learned Counsel for the applicant that said crime has been registered due to political rivalry cannot be accepted at this stage. Even otherwise, at the stage of bail this court is not required to appreciate the evidence or undertake detailed examination of evidence and elaborate documentation of the merits of the case. At this stage, the Court is required to consider amongst other circumstances, the nature of accusation and supporting material, severity of punishment, reasonable apprehension of tampering with the witnesses, criminal antecedents etc. In the instant case, the material on record

indicates that the applicant herein had fired a gun shot on the injured Vivek. The nature of the weapon used, as well as the part of the body on which the injury was inflicted prima facie brings the offence within the ambit of Section 307 of IPC. The gravity of the offence and the supporting material thereof does not justify grant of bail.

7. The learned APP has placed on record a chart to show that the applicant was involved in four crimes. The learned Counsel for the applicant has submitted that out of these four crimes, the applicant has been acquitted in two crimes. Nevertheless, the records reveal that the applicant is facing trial in respect of two other crimes. Crime No.157 of 2014 registered with Lashkar Police Station for the offences under Section 143, 147, 307, 326 r/w. 149 of IPC and Crime No. 171/2014 registered Vanvadi Police Station for the offence under Section 394, 427 r/w. 34 of IPC and Section 4(25) of Arms Act. Considering the nature of the offence as well as the criminal antecedents of the applicant, in my considered view, this is not a fit case for grant of bail. Hence the application stands rejected.

(ANUJA PRABHUDESSAI, J.)