

10- BA 2650 of 2017

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

BAIL APPLICATION No. 2650 OF 2017

Bharat Tukaram Malusare

...Applicant

Vs.

The State of Maharashtra

...Respondent

Mr. Bharat M. Sarda for Applicant

Ms. Veera Shinde -APP

CORAM : SMT. SADHANA S. JADHAV, J.

DATE: JULY 26, 2018

P.C.

1. Heard. This is an application under section 439 of the Criminal Procedure Code.

2. The Applicant herein is arrested on 3rd December, 2016 in Crime No. 46 of 2016 registered at Panchgani Police Station, Satara for offences punishable under Section 307, 504, 506 of the Indian Penal Code. The investigation is completed and charge-sheet is filed.

3. It is the case of the prosecution that on 3rd December, 2016. Mangesh Malusare lodged a report at the police station alleging therein that on 2nd

December, 2016, when he was standing and chatting with his cousin Nitin Malusare, the Applicant had approached him and he had told him that since he is a Human Rights Worker and activists, he had filed false reports with the police station, due to which he was externed for some time and that he would have to pay for the same. The first informant had candidly told him that it was a misunderstanding and that he had not indulged into any such activities. The Applicant had abused him and, thereafter, Ajit, Ananda, Maruti and Shankar had come to the spot. They had tried to pacify him, but, he was beyond approach and, thereafter, the Applicant had drawn his knife and had mounted assault upon him. The Complainant had sustained several injuries on vital parts of the body.

4. Perused the papers of investigation, more particularly, the injury certificate which shows that the first informant has sustained;

- (1) CLW left upper arm posteriorly 3 x 2 cm.
- (2) CLW right upper arm anteriorly 1 x 1 cm.
- (3) CLW right upper lateral chest wall 3 x 2 cm.
- (4) Small CLW right pubic symphysis 1 x 1 cm.
- (5) 2 CLWs right upper 4 x 2 cm., thigh medially 2 x 1 cm.
- (6) Sutured CLW left iliac crest laterally

(7) Stab wound right 5 x 3 cm. mid axilla

(8) Stab wound left 7 x 3 cm lat, lower lumber right.

The injury Nos. 6,7 and 8 are described as grievous injuries with sharp metal object (knife). There are eye witnesses to the incident.

5. It appears that the Applicant herein was taken into custody soon after the incident. At the time of taking into custody, he had threatened the people, who had taken the informant to the hospital that they would also have to face similar consequences, if they support the first informant. Due to the threats, which were given, the police has also filed a report. The Applicant has been charge-sheeted in Crime No. 23 of 2015 for offences punishable under section 353, 159, 504, 506 of the IPC and Crime No. 9 of 2014 registered for the offence punishable under section 279 and 4227 of the IPC. There are three non-cognizable cases registered against the Applicant. The police report shows that the villagers had reported to the police that the Applicant herein threatened the people at large. That the peace and tranquility in the society is disturbed because of the applicant.

6. The learned counsel for the Applicant submits that the Applicant has been in custody since December, 2016 and, therefore, he deserves to be enlarged on bail. It is also submitted that at present the injured is hail and

hearty, therefore, further incarceration is unwarranted.

7. The learned APP submits that initially the application seeking enlargement on bail was withdrawn before Justice Nalawade on 21st August, 2017 without advancing the arguments. It is submitted by the learned APP that in the present case the charge is framed in December, 2017 and, therefore, the case is ripe for trial. It is also submitted that the safety and security of the complainant as well as the eye witnesses would be at stake at the hands of the present Applicant.

8. As against this, the learned counsel for the Applicant submits that till today the muddemal is not received in the Court and, therefore, the trial could not proceed. It is submitted that the Applicant happens to be a political activist. That his family is facing hardships because of his incarceration and, therefore, he may be enlarged on bail.

9. In the present case, since the charge is framed and looking at the nature of offence and the material collected in the course of investigation, coupled with the antecedents and the conduct of the Applicant, this Court is not inclined to consider the application for grant of bail. However, since the charge is framed almost six months ago, the Learned Sessions Judge seized with Sessions Case No. 30/2017 shall make every endeavor to conclude recording of evidence as

far as possible by 30th November, 2018. The Learned Sessions Judge shall not grant unwarranted adjournments to the prosecution or to the defence. The Learned Sessions Judge, Satara, shall call for the muddemal in the court forthwith i.e. within two weeks from the date of receipt of this order.

Bail 1application stands rejected.

[SMT. SADHANA S. JADHAV, J.]