

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

**BAIL APPLICATION NO.3037 OF 2017
WITH
INTERVENTION APPLICATION NO.78 OF 2018**

Pranav Vilas Datar		Applicant
<u>Vs.</u>		
The State of Maharashtra		Respondent

Mr. Vikas B. Shivarkar for the Applicant.
Mr. Subir Sarkar for Intervenor
Mr. S.R. Agarkar, APP for the State.

Mr. Salmankhan Pathan, PSI, Mundhwa Police Station, Pune city,
present.

***Coram : Smt. Sadhana S. Jadhav, J.
Date : 23rd February, 2018***

P.C.:

1 Heard the learned counsel for the applicant and the
learned APP. Perused the papers of investigation.

2 This is an application under Section 439 Code of Criminal
Procedure. The applicant herein is arrested on 6th July 2017 in Crime
No.199 of 2017, registered at Mundhwa Police Station for the
offences punishable under Sections 307, 326, 354, 506, 323 read

with 34 Indian Penal Code. The investigation is completed and the charge-sheet is filed against the present applicant.

3 It is the case of the prosecution that on 6th July, 2017, Parth Rohit Vyas was admitted in Columbia Hospital. Upon enquiry, he had disclosed to the doctor that on 5th July, 2017, he had been to Gastro Hotel with his friend Shantanu Roy and his other friends Simran Kochar and Radhika Nizawan. That at about 11.30 pm, one unknown person had approached him and requested him to introduce him to his female friends. The first informant had denied the same. The said unknown person had also offered him liquor. The first informant had noticed that the unknown person was touching the girls inappropriately. When the girls had been to the wash room, the said person had again followed the girls. There was a quarrel between the first informant and the said unknown person. Thereafter at about 1.25 am. of 6th July, 2017, when the first informant was returning home with his friends, the unknown boys mounted assault on him and his friends. One of them had assaulted the first informant with brick on his head and thereby causing depressed comminuted fracture to his head. The first informant happens to be a law student. The incident in question was captured in the CCTV footage and on the basis of images captured, the principal assailant was identified as Pranav Datar i.e. the present applicant. Soon thereafter the applicant was arrested.

4 Learned counsel for the applicant submits that the co-accused have been enlarged on bail and therefore by virtue of doctrine of parity, the applicant also deserves grant of bail. Learned counsel for the intervenor, Mr. Subir Sarkar demonstrates that in fact parity would not be applicable in the present case as the applicant herein happens to be principal offender as observed in bail orders granted in favour of the co-accused. There is no doubt that the applicant was identified at the test identification parade also. Learned counsel appearing for the intervenor submits that the applicant does not deserve sympathy or leniency since the applicant had not only assaulted the first informant but had also assaulted his female friends on the road after there was enough time to cool down. It appears from the record that the applicant is in custody for more than eight months. The investigation is completed and charge-sheet is filed. The applicant has no criminal antecedents. Learned counsel for the applicant submits that the applicant and his friends were also under the influence of alcohol and there was no pre-meditation to assault the first informant or his female friends and the incident had occurred. From the papers of investigation, it can be seen that the incident had not occurred on the spur of moment. The applicant has been in custody since 6th July, 2017. Hence, he deserves to be enlarged on bail.

5 Learned counsel for the intervenor, upon instructions, submits that most of the witnesses are students, who are studying in 2nd last or last year of Law. They may not be available for trial after two years. In view of this, the trial stands expedited. The trial be concluded as far as possible within 7 months from being committed to the Court of Sessions. The complainant as well as the witnesses are at liberty to move an application to the Sessions Court to expedite the trial after it is committed to the Court of Sessions.

6 The observations made hereinabove are restricted to the application under Section 439 Code of Criminal Procedure and shall not be taken into consideration for the purpose of quashing of F.I.R., discharge application or at the time of trial. Hence, the order :

ORDER

1 The application is allowed.

2 The applicant be enlarged on bail on furnishing P.R. bond in the sum of Rs.50,000/- with one or more solvent sureties in the like amount.

3 The applicant shall not visit the area from Camp, Pune to Mundhawa police station/ Koregaon Park, Viman Nagar and Kalyani Nagar etc. i.e. the area beyond Camp/Cantonment area.

4 Intervention Application No. 78 of 2018 heard, allowed and disposed of.

(*Smt. Sadhana S. Jadhav*, J)