

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

CRIMINAL BAIL APPLICATION NO.200 OF 2018

Viresh @ Iranna Shivlingappa
Jamdar/Talwar

.... Applicant

versus

The State of Maharashtra

.... Respondent

.....

- Mr.Ritesh M. Thobde, Advocate for Applicant.
- Ms.A.A. Takalkar, APP for the State/Respondent.
- API C.S. Wable, presently attached to Faujdar Chawdi Police Station, Solapur, present.

CORAM : SARANG V. KOTWAL, J.
DATE : 08th JULY, 2019

P.C. :

1. The Applicant is seeking bail in connection with C.R.No.152/17 registered with MIDC Police Station, Solapur, under section 307 r/w 34 of the Indian Penal Code.
2. The FIR is lodged by the injured informant on 07/03/2017. He has stated that his sister Mahananda was married to one Mahivalappa Virappa Kalshetty about 16 years

before the incident. There was matrimonial dispute between Mahananda and Kalshetty. Mahananda was residing with the first informant since June 2016. Kalshetty wanted Mahananda to come back to reside in their matrimonial house. However, Mahananda did not go there. Therefore Kalshetty was holding grudge against Mahananda and the present Applicant.

3. On 07/03/2017 at around 08.15 a.m. the Applicant was going towards a temple on his motorcycle with his son aged 3 years. At that time, one Bolero jeep rammed into his bullet. The first informant fell down. Kalshetty, his associate Amol and three other persons, got down with sickle in their hand and they brutally assaulted the first informant. People from locality started gathering there. Therefore the assailants went away. The informant's sister came there and removed him to hospital. On these allegations, the FIR was lodged.

4. The Applicant was arrested on 25/03/2017. The investigation is over and the charge-sheet is already filed.

5. Heard learned Counsel Mr.Ritesh M. Thobde for the Applicant and learned APP Ms.A.A. Takalkar for the State.
6. Mr.Thobde submitted that the present Applicant is not named in the FIR. He submitted that though Applicant was arrested on 25/03/2017 the test identification parade was held on 20/04/2017, wherein the first informant had identified the Applicant. He submitted that the delay in holding the test identification parade has remained explained. He further submitted that there was no recovery of any incriminating article including any weapon at the instance of the present Applicant. He further submitted that there was no motive attributable to the present Applicant for committing this offence.
7. Learned APP pointed out that the informant had suffered many serious injuries. She submitted that the evidence of test identification parade was sufficient to show complicity of the present Applicant in the offence. She submitted that though

motive is not directly attributable to the Applicant, but he was acting at the behest of the husband of the informant's sister.

8. I have perused the investigation papers annexed to the Applicant. The injury certificate shows that the informant had suffered 14 serious injuries. Most of them were on the hands and head. The first informant had even lost sensation of his hand. The assault undoubtedly was brutal. Only because people from the locality gathered there, the first informant could be saved. Therefore there is no doubt that the intention of the assailants was to commit murder of the informant. Their attempt remained unsuccessful.

9. The test identification parade was held on 20/04/2017. At that time the first informant himself had identified the present Applicant. There is no force in the submission of learned Counsel for the Applicant that the test identification parade was held belatedly. Looking at the nature of the injuries suffered by the Applicant, it was understandable

that the test identification parade was held only after the informant had recovered sufficiently from his injuries. At this stage, this evidence is sufficient to connect the present Applicant with the crime. Looking at the nature of the brutal assault on the Applicant, no case for bail is made out. The application therefore is rejected.

(SARANG V. KOTWAL, J.)