

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

CRIMINAL BAIL APPLICATION NO. 47 OF 2019

Vicky Rajendra Sarode

...Applicant

Vs.

State of Maharashtra

...Respondent

- Mr. Aniket Nikam I/b Mr. Vivek N. Arote, Advocate for the Applicant.
- Mr. Prashant Jadhav, APP for the State.
- Mr. S. B. Bansawde, API, Yerwada Police Station.

CORAM : SARANG V. KOTWAL, J.

DATE : 16th AUGUST, 2019

P.C. :

1. The applicant is seeking his release on bail in connection with CR No.118/18 registered at Yerwada Police Station for the offences under Sections 427, 504, 506(2) read with Section 34 of the IPC and under Section 4 read with 25 of the Indian Arms Act. Subsequently section 395 of the IPC was also added.

2. The investigation is over and charge-sheet is filed. The case is pending before the court of sessions at Pune vide Sessions Case No. 397/18. The applicant is arrested on 28th February 2018 and since then he is in custody.

3. The FIR in this case is lodged on 20th February 2018 by one

Rehana Shaikh. She has stated in her FIR that her family was having enmity with Akash Phuge, Shahrukh, Julfiquar and Javed Shaikh. On 19th February 2018, at about 9.30 p.m., she heard commotion in the area. She came in the balcony and saw that her brother's swift car was being attacked by two boys, who had masked themselves. Accused Shahrukh was giving abuses in the name of the informant's brother. Informant shouted from the balcony. One of the accused had threatened her. That boy was accused Akash Phuge. Thereafter, people from locality gathered and the accused went away. The car was damaged as both the glasses of the car were broken. On these basis the FIR was lodged.

4. During the investigation statement of one Javed Shaikh was recorded. He has stated in his statement that after 9.30 p.m. on 19th February 2018, while he was in the same area, he saw four to five persons including the present applicant going on three motorcycles. They were having weapons like swords, wooden sticks and some sharp weapons. They stopped near this witness. Accused Shahrukh and Akash started assaulting him. The other accused Swapnil Chavan and Samir Shaikh held him. Akash,

Sharhukh and Dinesh also threatened him. The accused Shahrukh and Akash forcibly took away his silver chain and silver bracelet. Thus, offence under Section 395 of the IPC was also added against them.

5. Heard, Mr. Nikam, learned counsel for the applicant and Mr. Jadhav, learned APP for the State.

6. Mr. Nikam submitted that no role is attributed to the present applicant except that he was present alongwith the other accused. The main accused Akash Phuge and Shahrukh are already granted bail by the court of sessions.

7. Learned APP submitted that the offence is serious and the learned judge while rejecting the application for bail of the present applicant, has made an observation that there are offences pending against the present applicant and there are criminal antecedents.

8. I have considered these submissions. Perused the statement of the informant. The informant had not named the applicant. Co-accused are already released on bail. There is nothing to connect the applicant with the incident of damaging the car. No test identification parade is held in that behalf. So far as the second

part of the incident when Javed Shaikh was robbed is concerned, even then except mere presence of the present applicant, there are no allegations against him concerning any over act. The applicant is in custody since 28th February 2018. There is hardly any material against the present applicant in the entire chargesheet.

9. In this view of the matter, his further detention in the custody during the entire period of trial may not be justifiable. Hence, I am inclined to grant bail to the applicant and pass the following order:-

ORDER

(I) The Applicant is directed to be released on bail in connection with C.R. No.118/18 registered at Yerwada Police Station, on his furnishing PR bond in the sum of Rs.25,000/- (Rupees Twenty Five Thousand Only) with one or two sureties in the like amount.

(ii) Application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)