

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****CRIMINAL BAIL APPLICATION NO.3572 OF 2021**

Azharuddin Shahnawaz Chikhlekar Applicant
Versus
The State of Maharashtra ... Respondent

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Mr. Sameer A.K. Fouzi a/w. Mr. Vivek M. Punjabi for the Applicant.

Ms. P.P. Shinde, APP for the Respondent-State.

Mr. Raju Narawade, Padgha Police Station.

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CORAM : SURENDRA P. TAVADE, JJ.

DATE : 3rd NOVEMBER, 2021.

P.C. :

1. This is an application for bail u/s.439 of Cr.P.C in connection with C.R.No.137 of 2021 registered with Padgha Police Station, Thane for the offences punishable u/s.307, 324, 323 and 506 r/w.34 of IPC.
2. One Saddam Majjid Chikhlekar filed FIR against the applicant on 26.03.2021. It is alleged that on 25.03.2021 at 9.35 p.m. the informant was going to Tulsi village by his motorcycle. One grey colour Innova car came from the opposite side. The informant saw that one Azhar Chikhlekar i.e. the applicant was driving the said Innova car. Yaseen Chikhlekar was is at his side and one

Sayyam Ajj Patel is sitting on the vehicle. On seeing the applicant and co-accused, the informant took his motorcycle towards village Tulsi. After seeing that Innova car went towards Padgha, he turn his motorcycle near his land to take location of his mobile. He parked his motorcycle near the iron gate and started to take mobile location by sitting on the motorcycle. The Innova car gave dash to the motorcycle of the Informant. The informant fell down on the road and he sustained injury. Thereafter, the applicant and co-accused is run away from the spot. The informant lodge FIR against the applicant. The applicant came to be arrested on 01.09.2021. It is contended that in all 3 accused persons were arrested in the crime. Accused No.3 Patel was released u/s.169 of Cr.P.C. as no material was found against him. It is contended that co-accused Yaseen is ordered to be released on bail by the Sessions Court. In view of the said fact, learned counsel for the applicant submits that the applicant is entitled for bail on parity. He relied on the judgment of Sajid Basir Shaikh vs. State of Maharashtra, reported in 2005(3)Mh.L.J.460 wherein the applicant was released on bail on parity. It was held that the allegations against the accused persons were similar in nature, hence, the applicant was released on bail on parity. In the present case Yaseen was sitting near by the applicant. In fact, it is the case of the applicant that the applicant was driving Innova car. Therefore,

the act of Yaseen and the applicant cannot be said to be similar. Therefore, the grant of party is out of question.

3. As far as the bail is concerned, it is alleged against the applicant that he gave dash to the informant. Learned APP submits that the informant has sustained minor injuries. On the basis of the said submissions, learned counsel for the applicant submits that offence u/s.307 is made out. For that purpose, one has to read FIR. It is specifically alleged by the informant that he saw Innova car, hence, proceeded towards village Tulsi, but he was chased and therefore Innova car gave him dash, so it cannot be said that the offence under Section 307 is not made out.

4. As far as the investigation is concerned, the investigation is almost completed. Nothing is to be recovered at the instance of the applicant. Learned APP submits that the applicant is facing in all 12 offences registered with Paghda police station, Thane. Most of the offences are body offences. Learned counsel for the applicant submits that the applicant is entitled to be released on bail. At the most, the strict condition can be imposed upon the applicant to avoid threatening of witnesses and tampering the witnesses. Therefore, in my opinion, the applicant is entitled for bail. Hence, I pass the following order.

ORDER

1. The application is allowed.
2. The applicant is directed to be released on bail in connection with C.R.No.137/2021 registered with Padgha Police Station, Thane on furnishing PR & SB bond in the sum of Rs.25,000/- with one or two sureties in the like amount.
5. The applicant is directed to attend the concerned police station every day between 9.00 a.m. to 11.00 a.m. till 10.12.2021.
5. The applicant is directed not to tamper with the prosecution witnesses.
6. The application is disposed of in the above terms.

(SURENDRA P. TAVADE, J.)