

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL APPLICATION NO. 3502 OF 2016

**RAMBHAU S/O GANPATI RAUT
VERSUS
THE STATE OF MAHARASHTRA**

...
Advocate for Applicant : Shri Salunke Sudarshan J.
APP for Respondents: Shri S.D.Ghayal.

...

CORAM: SMT. S.S.JADHAV, J.

DATE :- 15th July, 2016

Per Court:

1 Heard.

2 This is an application under Section 439 of the Code of Criminal Procedure. The Applicant is arrested on 16.05.2016 in Crime No.135/2016 registered at Kaij Police Station for the offences punishable under Sections 307 r/w 34 of the Indian Penal Code.

3 It is the case of the prosecution that on 13.05.2016 the Complainant (Vaijanath Raut) has lodged the report at the Police Station alleging therein that he owns 5 acres of agricultural land at Kanadi Mala Shivar. That there is boundary dispute between the Complainant and

Rambhau Raut, who is the present Applicant. It is alleged that on 12.05.2016 the Complainant was called in the agricultural land. It appears that there was some attempt to get the lands measured. It is further alleged that the present Applicant had concealed some weapon in his wearing apparel (Dhoti). That in the course of verbal altercation, the present Applicant has thrown chilly powder on the face of the Complainant. In the meanwhile, the Complainant was assaulted. It is also alleged that upon hearing his cries, Lahu, Dhananjay and Anita had rushed to the spot and they were also assaulted. On the basis of his report, the offence was registered against the present Applicant and his sons.

4 Perused the injury certificates which show that the Complainant had sustained four contiguous lacerated wounds (CLWs) and one abrasion, which are defined to be simple in nature. Dhananjay had sustained one abrasion and CLW, whereas Lahu sustained two abrasions and one crushed injury on right index finger distal phalanx.

5 The learned APP submits that the co-accused, who happen to be the sons of the present Applicant, are absconding. The injuries sustained by Lahu are attributed to one of the sons of the present Applicant.

6 The learned Advocate for the Applicant submits that irrespective of the role attributed to the present Applicant, his age needs to be taken into consideration as he is about 75 years old. It is further submitted that by virtue of the proviso to Section 437 of the Code of Criminal Procedure, the Applicant is entitled to be enlarged on bail after being in custody for almost two months.

7 It is in these circumstances that the Applicant deserves to be enlarged on bail. Hence, the following order:-

- (a) This Criminal Application is allowed.
- (b) The Applicant (Rambhau Ganpati Raut) be enlarged on bail on furnishing P.R. bond in the sum of Rs.15,000/- (Rupees Fifteen Thousand) with one or two sureties in the like amount.
- (c) The Applicant shall report to the concerned Police Station on every Saturday and Sunday between 10:00 am to 12:00 noon and shall cooperate with investigation to the best of his capacity, till the filing of the charge sheet .
- (d) It is made clear that the absconding accused shall not claim parity with the present Applicant and their applications seeking bail shall be dealt with in accordance with law.
- (e) It is also made clear that the observations made herein above

are prima facie in nature, restricted to an application under Section 439 of the Code of Criminal Procedure and shall not be considered for the purposes of quashing of the First Information Report, discharge application or at the time of trial.

- (f) The parties to act on an authenticated copy of this order.

kps

(SMT. S.S.JADHAV, J.)