

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

CRIMINAL BAIL APPLICATION NO. 1666 OF 2016

1 Swapnil Chandulal Baheti.
2 Prashant Baban Potdar. ... Applicants.
Versus
The State of Maharashtra. ... Respondent.

Mr. Ritesh Thobde, advocate for Applicants.

Mr. Y.M. Nakhwa, APP for State.

Mr. S.C. Patil, PSI, Sadar Bazar Police Station, Solapur.

**CORAM : SMT. SADHANA S. JADHAV,J
DATE : SEPTEMBER 20, 2016**

P.C.:

1 Heard the learned Counsel for the applicants and the learned APP for State. Perused the papers.

2 This is an application under Section 439 of the Code of Criminal Procedure, 1973. The applicant No. 1 herein is arrested on 27/4/2016 and applicant No. 2 is arrested on 29/4/2016 in Crime No. 215 of 2016 registered at Sadar Bazar Police Station, Solapur for

offence punishable under Section 307, 324, 323, 504, 506, 143, 147, 149 of the Indian Penal Code. The investigation is completed and charge-sheet is filed.

3 It is the case of the prosecution that on 27th April, 2016 Rajesh Tukaram Dahihande lodged a report at the police station alleging therein that he is working as receptionist in Hotel Pratham. On 22nd April, 2016 at about 10.45 p.m. some people had come in the hotel. They had asked for a room. They had no luggage with them and hence, the complainant had objected. They had made the complainant to talk to some person who had informed that he was Satyaprakash Agrawal who used to visit the hotel on several occasions. The complainant had demanded for the I.D. Card. One of the accused had given his PAN card. In the register, the said person had shown his name as Swapnil Baheti i.e. the present applicant, whereas the PAN card was in the name of Sonkawade. The complainant has refused to allot the room and that enraged the accused persons and they had mounted assault upon him. Hence, he

has sustained injuries. It is also alleged that one of the accused had also attempted to strangle the complainant. Hence, the offence under Section 307 has been alleged against the present applicant.

4 Upon perusal of the injury certificate, it appears that the complainant had sustained injuries in the form of abrasions and contusions. There was blunt trauma on the nose. Prima facie upon perusal of the papers of investigation, this Court is of the opinion that an offence under section 307 of the Indian Penal Code may not be attracted. The incident has occurred on the spur of the moment and that there was no previous enmity nor premeditation. Be that as it may, investigation is completed and charge-sheet is filed. The applicant has been in custody for more than 4 months. Hence, the applicants deserves to be enlarged on bail.

5 However, it is made clear that the observations made herein above are prima facie in nature and are restricted to the application under section 439 of the Code of Criminal Procedure, 1973. The

learned Sessions Judge shall not be influenced by the same at the time of trial.

6 Hence, following order is passed :

ORDER

- (i) The application is allowed.
 - (ii) The applicants be enlarged on bail on furnishing P.R. Bond in the sum of Rs.25,000/- each and one or more sureties sureties in the like amount.
 - (iii) The applicant shall report to Sadar Bazar Police Station on 4 consecutive Sundays between 10 a.m. to 12 noon commencing from 25/9/2016.
 - (v) The applicant shall not tamper with the evidence.
- 7 The application is disposed of accordingly.

(SMT. SADHANA S. JADHAV,J)