

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

**CRIMINAL BAIL APPLICATION NO. 2209 OF 2016**

Chagan Abbas Late. ... Applicant.

Versus

The State of Maharashtra. ... Respondent.

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Mr. S.V. Kotwal i/b. Mr. Ashish S. Sawant, advocate for Applicant.

Mr. Abhay Jadhwar a/w. Mr. Sachin K. Hande, advocate for intervenor.

Ms. Veera Shinde, APP for State.

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

**DATE : NOVEMBER 23, 2016**

**P.C.:**

1 Heard the learned Counsel for the applicant, learned Counsel for intervenor 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 herein is arrested on 2/7/2016 in Crime No. 86 of 2016 registered at Vairag Police Station initially for offence punishable under Section 302, 307, 143, 147, 148, 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 1/4/2016 Nitin Neminath Late lodged a report at the police station alleging therein that there was dispute between family of Late and Gholve on one side and the family of the first informant on the other side. There was quarrel over common boundary in the agricultural land. It is alleged that on 1<sup>st</sup> April, 2016 at about 8 a.m., his brother Prakash was performing agricultural operations. The first informant had also been in the agricultural land. His parents were also present. Vijay Late had seen Prakash in the agricultural land. He called upon his brothers and informed them that Prakash is cultivating the land. Soon thereafter, Samadhan Gholve, Vijay Late, Rajendra Nagarmoje, Dashrath Nagarmoje, Sangram Golve, Mahesh Late, Chagan Late and others came to the spot. They were armed with axe, sticks and iron rods. They mounted assaulted upon Prakash and caused such deadly injuries. That Prakash had succumbed to the injuries instantaneously.

4     Upon perusal of the papers of investigation, particularly, the  
post mortem notes it appears that Prakash had sustained as many as  
21 injures including stab injuries and fractures. Prakash was  
grievously assaulted.

5     The learned Counsel for the applicant submits that there are  
omnibus allegations against all the members of the family of the  
applicant and in fact, the altercation had taken place only with a few  
members of the family and no specific role is attributed to the  
applicant. Hence it is prayed that the applicant be enlarged on bail.

6     Taking into consideration the papers of investigation, more  
particularly, post mortem notes and the fact that the applicant is  
being prosecuted with the aid of section 147, 148, 149 of the Indian  
Penal Code, it is not necessary that a specific role be attributed to the  
applicant. It is clear that all the accused shared a common object.  
Hence, the application being sans merits stands rejected.

7      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.

8      The application is disposed of accordingly.

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