

CRIMINAL BAIL APPLICATION NO. 170 OF 2017

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section 34 of the Indian Penal Code. The investigation is completed and charge-sheet is filed.

2 It is the case of the prosecution that on 18th March, 2016 Aslam Taasduk Hussain Choudhari lodged a report at the police station alleging therein that he had some civil dispute with his paternal uncle Abdulla. The applicant happens to be son of Abdulla. The brother of the first informant namely Mohd. Ashraf had assaulted the applicant on 7/10/2015. According to the victim on 17/3/2016, the applicant had assaulted him with sword. His associates had assaulted him with chopper due to the old disputes.

3 The injury certificate indicates that the first informant had sustained one CLW on his forehead, which was grievous in nature, one CLW on his forearm and superficial injuries on his forearm which are simple in nature. The allegation against the present applicant is that he had assaulted with sword. However, it appears that the injury caused on the forehead was with the chopper, which was used by

another co-accused. The applicant has been in custody for past 10 months. The investigation is completed and charge-sheet is filed. The learned APP submits that the applicant has criminal antecedents. The learned Counsel for the applicant submits that in Crime No. 41 of 2011 registered for offence punishable under section 399 and 402 of the Indian Penal Code, the applicant has been acquitted and as far as Crime Nos. 73/13 and 82/14 are concerned, these are cross cases between two rival groups.

4 Taking into consideration the nature of injuries attributed to the applicant and the submissions advanced across the bar, the applicant deserves to be enlarged on bail.

6 However, the observations are prima facie in nature and restricted to the application under section 439 of the Code of Criminal Procedure, 1973 and the trial Court shall not be influenced by the same at the time of trial.

7 Hence, following order is passed.

ORDER

- (i) The application is allowed.
- (ii) The applicant be enlarged on bail on furnishing P.R. Bond in the sum of Rs. 25,000/- with one or more solvent sureties in the like amount.
- (iii) The applicant shall not reside within the jurisdiction of Govandi till conclusion of the trial.

8 The application is disposed of accordingly.

(SMT. SADHANA S. JADHAV, J)