

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

CRIMINAL BAIL APPLICATION NO. 2221 OF 2016

Ravi Bhaskar Sansare.	... Applicant.
Versus	
The State of Maharashtra.	... Respondent.

Mr. Charan Penthalia, advocate for Applicant.

Mr. R.M. Pethe, APP for State.

Mr. Torgal, PSI, Central Police Station, Ulhasnagar.

**CORAM : SMT. SADHANA S. JADHAV, J
DATE : MARCH 2, 2017**

P.C.:

1 Heard the learned Counsel for the applicant 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 26/2/2016 in Crime No. 117 of 2016 registered at Thane Central Police Station, Thane. Investigation is completed and charge-sheet is filed against

the applicant for offence punishable under section 307, 323 read with 34 of the Indian Penal Code and section 4 read with 25 of the Indian Arms Act and 37(1), 135 of Mumbai Police Act.

3 It is the case of the prosecution that on 26/2/2016 Anil Karotiya lodged a report at the police station alleging therein that on 25/2/2016 he returned home from work at about 7 p.m.. He was chitchatting with his brother. The applicant herein was brandishing his sword towards them. Wife of the complainant and his brother had dared him to take action and not just brandish the sword. Upon the said challenge, the applicant had assaulted Anil. The injured was taken to the hospital as he had sustained incise wound on his shoulder and contused lacerated wounds. The nature of the injury was shown as simple. Subsequently, statement of the doctor was recorded and he had stated that in fact, the injuries are grievous in nature but are not sufficient in ordinary course of nature to cause death.

4 The learned Counsel for the applicant submits that taking into consideration the injury certificate and the opinion of the doctor, it cannot be said that the applicant has committed an offence under section 307 of the Indian Penal Code.

5 The learned APP submits that the applicant has criminal antecedents in the circumstances that there is family rivalry between the family members of the complainant and the applicant.

6 It is a matter of record that the brother of the complainant is in custody for having caused homicidal death of the brother of the applicant. The applicant is in custody for more than one year. Investigation is completed and charge-sheet is filed. Taking into consideration the nature of injury and the fact that the charge-sheet is filed, the applicant deserves to be enlarged on bail. However, the applicant shall not reside in Mumbai, Navi Mumbai or Thane till framing of charge. Upon instructions, the learned Counsel for the applicant submits that the applicant would be residing at Jalgaon and

would attend the court regularly at the time of framing of charge as well as thereafter on every stipulated date.

7 The observations are prima facie in nature and restricted to the application under section 439 of the Code of Criminal Procedure, 1973. The same shall not be considered at the time of hearing of application for discharge application or quashing of FIR or at the time of trial.

8 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/- and one or more solvent sureties in the like amount.
- (iii) The applicant shall not reside in Mumbai, Navi Mumbai and Thane till the framing of charge.

(iv) Upon instructions, Learned Counsel for the applicant submits that the applicant shall reside in Jalgaon. The applicant shall give his residential address, contact number such as landline number, cell phone numbers etc. to the Investigating Officer.

(v) The applicant shall report to the Jilha Peth Police Station, Jalgaon on every alternative Sunday till framing of charge. Upon failure to attend any two consecutive Sunday, the prosecution would be at liberty to file an application seeking cancellation of bail.

(vi) After commencement of the trial, in the eventuality that the applicant does not attend on two consecutive dates, the learned Sessions Judge shall issue non-bailable warrant and take the applicant into custody.

(vii) The applicant shall not tamper with the evidence.

9 The application is disposed of accordingly.

(SMT. SADHANA S. JADHAV, J)