

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

BAIL APPLICATION NO.2481 OF 2017

Vilas Somnath Thorat & Anr. Applicants

Vs.

The State of Maharashtra Respondent

Mr. R.R. Varma a/w Mr. Sanket Thorat for the Applicants.
Ms. Anamika Malhotra, APP for the State.

Coram : Smt. Sadhana S. Jadhav, J.

Date : 15th December, 2017

P.C.:

1 Heard the learned counsel for the applicants and the learned APP. Perused the papers of investigation.

2 This is an application under Section 439 Code of Civil Procedure. The applicants herein are arrested on 27th June 2017 in Crime No.388 of 2017, registered at Karmala Police Station, for the offences punishable under Sections 307, 324, 143, 147, 148, 149, 323, 504 and 506 Indian Penal Code. The investigation is completed and the charge-sheet is filed on 28th September, 2017.

3 It is the case of the prosecution that on 27th July 2017, one Chandrakant Thorat lodged a report at the Police Station alleging therein that the applicants herein holds an agricultural land adjacent to the agricultural land of the complainant. There was a civil dispute between the applicants and the complainant in respect of ownership of the said land. According to the complainant, he had purchased the said land 2 years ago and was cultivating the said land. However, the applicants had claimed their ownership on the land and therefore, had taken recourse to legal proceedings and filed a civil suit i.e. Regular Civil Suit No.11 of 2012 in the Court of Civil Judge, Junior Division, Karmala. The complainant had alleged that on 22nd July, 2017, when the cattle were grazing in their land, the applicants and their family members, who were working in the said land, had asked the complainant to withdraw their cattle. There was an altercation and in the meanwhile, the present applicants had assaulted his son, Manoj with a sword and the other members of the family had also mounted assault upon the family members of the complainant. On the basis of the said report, the Crime No. 388 of 2017 was registered against the applicants.

4 Perused the papers of investigation. The injury certificate would show that the complainant had sustained simple injuries. This appears to be a counter case. The son of the present applicant had also lodged a report on the same day about the same incident, on the

basis of which, Crime No. 389 of 2017 is registered at Karmala Police Station for the offences punishable under Sections 324, 323, 504 and 506 Indian Penal Code. The statement of injured was recorded on 30th June, 2017. It is specifically stated that on 28th April, 2007, the suit filed by the father of the applicant was decided in favour of the applicant. Learned counsel for the applicants submits that being aggrieved by the said judgment and order, the complainant had attempted to illegally cultivate the land of the applicants. On 26th June, 2017, there was a dispute. Learned counsel for the applicants submits that the complainant and his family members were aggressor and hence the incident had occurred.

5 Taking into consideration the facts of the case and that the investigation is completed and the charge-sheet is filed, this court is of the opinion that further incarceration of the applicants would be unwarranted and unjustified. The applicants have made out the case for grant of bail

6 The observations made hereinabove are restricted to the application under Section 439 Code of Criminal Procedure and shall not be taken into consideration for the purpose of quashing of F.I.R., discharge application or at the time of trial. Hence, the order :

ORDER

1 The application is allowed.

2 The applicants be enlarged on bail in Crime No.388 of 2017, registered at Karmala Police Station, on furnishing P.R. bonds in the sum of Rs.25,000/- each with one or more solvent sureties in the like amount.

(Smt. Sadhana S. Jadhav, J)