

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 111 OF 2018**

Kundalik Annappa Dhavare

Applicant

Versus

The State of Maharashtra

Respondent

Mr. Shriram S. Chaudhari, for the applicant.

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

Mr. Schin A. Hindalekar, API, Mangalvedha Police Station, Solapur Rural present.

CORAM : SMT. SADHANA S. JADHAV, J.

DATE : 7th February, 2018.

P.C. :

1. Heard. This is an application under Section 439 of Cr.P.C. The applicant herein is arrested on 2.10.2017 in Crime No.440 of 2017 registered at Mangalwedha Police Station, Solapur (Rural). The investigation is completed and charge sheet is filed against the applicant for the offences punishable under Sections 302, 341, 323 read with Section 34 of the Indian Penal Code.

2. It is the case of the prosecution that on 2.10.2017, Dhananjay Dhavare lodged a report at the police station alleging therein that the applicant herein happens to be his paternal uncle. That the applicant is residing in the agricultural land, where the informer's father holds 2-1/2

acres of land. There are disputes between both the brothers over the common boundaries. There is also a dispute in respect of the access road to their agricultural lands. The applicant herein had informed his brother that he is cultivating the land of Dharamraj who happens to be the elder brother. They should not have access to the said land. On 1.10.2017, the first informant was returning home with fodder. The present applicant had obstructed him on the way and informed him that he should not use that way as an access road. His cousin Hanumant had also approached at the spot. There was an altercation. The father of the first informant had intervened. Hanumant had pushed Bhmrao and Bhimrao had fallen on the road. Thereafter, Bhimrao was assaulted with fist and kick blow due to which he fell unconscious and did not regain consciousness thereafter. He had succumbed to the head injury. The investigation is completed and charge-sheet is filed on 22.11.2017. The post-mortem notes indicate that deceased was about 70 years old and the cause of death was head injury. The panchnama of scene of offence would show that the incident has occurred in an agricultural land. There were small pebbles on the small road and the surface was rough. The allegation against the present applicant is that he had assaulted the deceased with fist and kick blows on his stomach

and chest. There is no fracture to the rib or to the cartilage. The allegation is that Bhimrao was pushed on the rough surface against the co-accused Hanumant.

3. Taking into consideration the papers of investigation the papers of investigation, the role attributed to the present applicant and the fact that the applicant is 65 years old, this Court is of the opinion that the applicant deserves to be enlarged on bail.

4. The observations are restricted to an application under Section 439 of Cr.P.C. and the same shall not be taken into consideration for the purpose of quashing of FIR, discharge application or at the time of trial.

ORDER

(i) The application is allowed.

(ii) The applicant be enlarged on bail on furnishing P.R. Bond in the sum of Rs.15,000/- with one or more solvent sureties in the like amount.

(iii) The applicant shall not reside at Village Khave for a period of six months from the date of release.

The application stands disposed of.

(SMT. SADHANA S.JADHAV, J.)