

Anand

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

BAIL APPLICATION NO. 198 OF 2018

Datta alias Balu Sukhdeo Chopde

.Applicant

Vs.

The State of Maharashtra

.Respondent

Ms Mayuri D. Hatle, Advocate, for the Applicant

Mrs. A. A. Takalkar, APP, for the Respondent – State

CORAM : REVATI MOHITE DERE, J.

DATE : 26.03.2018

P.C.

. Heard learned counsel for the parties.

2. By this Application, the Applicant seeks his enlargement on bail in connection with C. R. No. I-214 of 2016 registered with the Navghar Police Station, District – Thane (Rural), for the alleged offences punishable under Sections 307 & 326 of the Indian Penal Code.

3. Perused the charge-sheet.

4. The incident took place on 25.06.2016 at about 8.30 p. m.

and the FIR was registered on 26.06.2016. According to the Complainant – Mugappa Nali Bugappa, he had gone to collect water on 25.06.2016 at about 8.30 p. m. when the Applicant's brother-in-law asked him not to take water. It appears that pursuant thereto, an altercation took place between them and the Applicant's brother-in-law called the Applicant. It is alleged by the Complainant that pursuant thereto, the Applicant assaulted him with a koyta on his head and thereafter, left the spot. Learned counsel for the Applicant submits that the Applicant has also sustained a bleeding injury on his lip and that the same is evident from the arrest panchanama. She submitted that at the highest, the offence would be punishable under Section 326 of the Indian Penal Code and not under Section 307 of the Indian Penal Code. She further submitted that the Applicant is in custody since 26.06.2016 and till date, the trial has not commenced. It appears that there are eye witnesses to the incident of altercation and assault. Be that as it may, the Applicant is in custody for the last one year and nine months. The Applicant has no antecedents. Whether the offence would be one punishable under Section 307 or 326 of the IPC, is a matter which will be decided by the trial Court. Investigation is complete and charge-sheet is filed.

5. Considering the aforesaid, the Application is allowed and the Applicant is enlarged on bail on the following terms & conditions :-

ORDER

(i) The Applicant be enlarged on bail, on executing PR Bond in the sum of **Rs. 20,000/-** with one or two local sureties in the like amount;

(ii) The Applicant shall report to the investigating officer of the concerned Police Station on the **first Sunday of every month** between **10:00 a. m. and 11:00 a. m.** till the conclusion of the trial;

(iii) The Applicant shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case;

(iv) The Applicant shall inform his latest place of residence and mobile contact number immediately after being released and/or change of residence or mobile details, if any, from time to time to the Court seized of the matter and to the Investigating Officer of the concerned Police Station;

(v) The Applicant to cooperate with the conduct of the trial;

(vi) The Applicant shall file an undertaking with regard to clauses (ii) to (v), in the trial Court, within two weeks of his release;

(vii) If there are two consecutive defaults in appearing before the trial Court or the concerned police station, the prosecution will be at liberty to apply for cancellation of the Applicant's bail.

6. The Application is allowed in the aforesaid terms and is accordingly disposed of.

All concerned to act on the authenticated copy of this order.

(REVATI MOHITE DERE, J.)