

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

BAIL APPLICATION No. 254 OF 2018

Swapnil Chandrakant Yadav

...Applicant

Vs.

The State of Maharashtra

...Respondent

Mr. Aniket U. Nikam i/b. Mr. Aashish Satpute for Applicant

Mr. N.B. Patil -APP

Mr. S.T. Pawar, Constable, Samarth Police Station, Pune.

CORAM : SMT. SADHANA S. JADHAV, J.

DATE: JUNE 25, 2018

P.C.

1. Heard. This is an application filed under section 439 of the Criminal Procedure Code.
2. The Applicant herein is arrested on 26th June, 2017 at about 6.00 p.m. in Crime No. 125 of 2017 registered at Samarth Police Station for the offences punishable under section 307, 325, 504, 506 r/w. 34 of the Indian Penal Code.
3. It is the case of the prosecution that on 26th June, 2017, Umesh Barawkar was admitted in Sasoon General Hospital with grievous injuries. Since it appeared to be medical lego case, the statement of the injured was recorded. He

disclosed to the police that the present Applicant and his brother Akshay were earlier residing in Somwar Peth. They were acquainted with each other. Subsequently they had migrated to Dhankawadi. But used to visit Somwar Peth quite often. The complainant was charge-sheeted for an offence punishable under Section 302 of the Indian Penal Code. However, he was acquitted of the said offence. The Applicant and his brother were annoyed with the complainant. On 25th June, 2017, the brother of the Applicant viz. Akshay had challenged the Complainant and threatened him of dire consequences. On 26th June, 2017 at about 6.00 p.m. when he was proceeding towards his house, Akshay had accosted and assaulted him with a sickle on his head. When he fell down, the present Applicant had assaulted the complainant with an iron rod and, thereby fractured his leg and when people had gathered on the spot, they had fled from the spot.

4. The learned counsel for the Applicant submits that there is no specific motive to assault the complainant as far as the present Applicant is concerned. It is submitted that the Applicant has no criminal antecedents. That he has been in custody for one year.

5. Perused the injury certificate issued by Sasoon General Hospital when the injured was discharged dated 3rd July, 2017, which shows that the

Complainant had sustained two fractures and both are marked as grievous injuries.

6. The learned counsel for the Applicant submits that the injuries are on the non-vital organs. The brother of the Applicant is alleged to have assaulted to complainant with a sickle, which had caused him grievous injuries.

7. The learned APP vehemently submits that the Applicant does not deserve to be enlarged on bail as he was earlier charge-sheeted in Crime No. 61 of 2013 registered at the same police station for similar offences and, therefore, it would not be desirable to repose faith in him as he would indulge in similar activities if released on bail.

8. Taking into consideration the nature of the allegations and the fact that the Applicant is in custody for a year, this Court is inclined to release the applicant on bail upon imposing certain stringent conditions. The observations are restricted to an application under section 439 of Cr.P.C. and shall not be taken into consideration while deciding the discharge application or at the time of trial. Hence, the following order:

ORDER

(i) The bail application is allowed.

(ii) The Applicant be enlarged on bail on furnishing P.R. Bond of

Rs.30,000/- and one or more solvent sureties in the like amount.

- (iii) The Applicant shall report to the Sahakar Nagar Police Station on every Saturday from 10.30 a.m. to 1.00 p.m. for six months and, thereafter, on 1st Saturday of every month till the conclusion of the trial.
- (iv) The Applicant shall not visit Somwar Peth area or enter into the jurisdiction of Samartha Police Station till the conclusion of the trial.

The bail application stands disposed of in the aforesaid terms.

[SMT. SADHANA S. JADHAV, J.]