

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

BAIL APPLICATION NO. 433 OF 2018

1	Vaibhav Balu Zagade.	
2	Omkar Laxman Zagade.	... Applicants.
	Versus	
	The State of Maharashtra.	... Respondent.

Mr. Bhalchandra S. Shinde, advocate for Applicants.

Ms. Veera Shinde, APP for State.

**CORAM : SMT.SADHANA S. JADHAV,J
DATE : FEBRUARY 15, 2018**

P.C.:

1 Heard the learned Counsel for the applicants and the learned APP for State.

2 This is an application under section 439 of the Code of Criminal Procedure, 1973. The applicants herein are arrested on 20/1/2018 in Crime No. 36 of 2018 registered at Indapur Police Station for offence punishable under section 143, 147, 326, 323, 504, 506 of

the Indian Penal Code. Subsequently, section 307 of the Indian Penal Code is added.

3 At the outset the learned Counsel for the applicants submits that the applicant No. 1 is appearing for his Higher Secondary School Certificate Examination which commences on 21/2/2018. The hall ticket and time table are annexed to the application. The applicant No. 2 is also a student of F.Y.B.Sc. and his examination is also starting soon.

3 It is the case of the prosecution that Vishal Yeralkar lodged a report at Indapur police station alleging therein that he alongwith Sagar Sukhdev Kirkat used to attend college at Indapur by bus everyday. Sagar is studying in 11th standard. The applicants and his friends were also studying in the said college. There used to be quarrels between them. That on 20/1/2018 when Vishal and Sagar were entering into the gate of the college, the applicants alongwith his friends had picked up a quarrel and had assaulted Sagar on a

cement wall due to which Sagar had sustained fracture injury. Initially, offence was registered under section 326 of the Indian Penal Code and subsequently, upon considering injury certificate section 307 of the Indian Penal Code is added.

4 The learned Counsel for the applicants submits that the applicants and his friends were not armed with weapons. They had no intention of causing such injury to Sagar, which would cause his death. The incident had occurred on the spur of the moment due to a trifling quarrel. That the complainant has blown the incident out of proportion.

5 Considering the fact that the applicants have been in custody since almost one month and that the applicant No. 1 has to appear for his Higher Secondary School Examination Certificate which commences on 21/2/2018, this Court is of the opinion that the applicants deserve to be enlarged on bail.

6 However, it is made clear that observations are restricted to the application under section 439 of the Code of Criminal Procedure, 1973 and the trial court shall not be influenced by the same at the time of quashing of FIR, discharge application or at the time of trial.

7 Hence, following order is passed :

ORDER

- (i) The application is allowed.
 - (ii) The applicants be enlarged on bail on furnishing P.R. bond in the sum of Rs. 25,000/- each with one or more solvent sureties in the like amount.
 - (iii) The applicants will not contact with the witnesses.
- 8 The application is disposed of accordingly.

(SMT. SADHANA S. JADHAV,J)

