

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 1349 OF 2018**

Gotya @ Sumedh Lahu Gaikwad. ..Applicant.

V/s.

State of Maharashtra. ..Respondents.

Mr. Nitesh Mohite I/b. Mr. Satyavrat Joshi, advocate for applicant.

Mr. S.R. Agarkar, APP for State.

CORAM : SMT. SADHANA S. JADHAV,J.

DATE : AUGUST 7, 2018.

P. C. :

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

2 This is an application under section 439 of the Code of Criminal Procedure, 1973. The applicant herein is arrested on 9/4/2016 in Crime No. 96 of 2016 registered at Sangvi Police Station for offence punishable under section 307, 326, 323 read with 34 of the Indian Penal Code. The investigation is completed and charge-sheet is filed. Case is also committed to the Court of Sessions and registered as Sessions Case No. 475 of 2016.

3 It is the case of the prosecution that on 6/4/2016 Vyankatesh Talwar was taken to Aundh Hospital, Pune. While he was taking treatment, his statement was recorded and he has disclosed that he is

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acquainted with Kisan Kamble. That one year prior to the incident, there was quarrel between Kisan Kamble and the present applicant and Praful Adsule. Ever since then, they were at logger head and used to quarrel intermittently. On the day of the incident also, there was an altercation between Deshpal on one side and the present applicant on the other side. According to the complainant, on the day of the incident in the afternoon, he was in the company of Hasan Haji Shaikh. The present applicant alongwith Praful Adsule and Deshpal had confronted the complainant and the applicant was enquiring with Akshay as to who was the person who was involved in the earlier altercation and soon thereafter, mounted assault with sickle on various parts of his body. He had also assaulted Hasan. They were taken to the hospital and treated in the out-patient department.

4 Learned Counsel for the applicant even without going into the into the merits of the matter fairly submitted that in the present case, injury certificate would indicate that the nature of injuries is simple and therefore, the applicant deserves to be enlarged on bail.

5 As against this, the learned APP has submitted that although the nature of injury is simple, the complainant and his friend Hasan has sustained about 9 injuries on their person and all the injuries were on the vital parts of the body.

6 In view of the fact that the applicant has been in custody for more than 2 years, the applicant deserves to be enlarged on bail.

7 The observations are prima facie in nature and restricted to the application under section 439 of the Code of Criminal Procedure,

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1973 and the same shall not be taken into consideration for discharge application or at the trial.

8 Hence, the following order is passed :

ORDER

(i) The application is allowed.

(ii) The applicant be enlarged on bail on furnishing P.R. Bond in the sum of Rs. 50,000/- and one or more solvent sureties in the like amount.

(iii) The applicant shall not reside in Dapodi till the conclusion of the trial.

(iv) The applicant shall not tamper of the evidence.

9 The application is disposed of accordingly.

[SMT. SADHANA S. JADHAV, J.]

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