

2- BA 1489 of 2018 a/w. 19- BA 1332 of 2018

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

BAIL APPLICATION No. 1489 OF 2018

Laxman Khamgal

...Applicant

Vs.

State of Maharashtra

...Respondents

WITH

BAIL APPLICATION No. 1332 OF 2018

Rahul @ Appa Maruti Kare

...Applicant

Vs.

The State of Maharashtra

...Respondent

Mr. Nitesh Mohite i/b. Mr. Satyavrat Joshi for Applicant in BA 1489 of 2018
Mr. Nitesh Mohite i/b. Mr. Jaydeep D.Mane for Applicant in BA 1332 of 2018
Ms. Veera Shinde -APP in BAS 1489 of 2018
Mr. S.H. Yadav -APP in BA/1332/2018

CORAM : SMT. SADHANA S. JADHAV, J.

DATE: AUGUST 9, 2018

P.C.

1. Heard the learned counsel for the Applicant and the learned APP for the State.

2. This is an application under section 439 of the Code of Criminal Procedure, 1973. The Applicant in Criminal Application No. 1332 of 2018 is in custody since 21st December, 2017. Whereas, the Applicant in Criminal Application No. 1489 of 2018 is in custody since 3rd February, 2018 in Crime No. 913 of 2017 registered at Indapur Police Station, Pune for offence punishable under Section 143, 147, 148, 149, 326, 307, 504, 506 of the Indian Penal Code. Investigation is complete and charge-sheet is filed.

4. It is the case of the prosecution that on 11/12/2017 Dyaneshwar Kalidas Karande who was under treatment at Krishna Hospital and Research Center, Indapur had disclosed to the police that on 9/12/2017 his grand-mother was sleeping on the platform abutting his house, at that time, Sadashiv Devkate and Kuldeep Ukale along with 3 to 4 unknown persons had assaulted his grand-mother on her legs under the presumption that it was the complainant and his father who must be sleeping on the platform. Upon hearing hue and cry of his grand-mother, he rushed outside. At that juncture, he was assaulted with an iron rod on his head by Sadashiv Devkate and Rahul Kare. The motive of assault is that the first informant had filed a complaint against the present applicant's brother contending therein that they are indulging into money lending business without licence and therefore, they wanted the complainant to withdraw the

said complaint.

4. Perused the papers of investigation, more particularly, injury certificate of the complainant which indicates that he had sustained contused lacerated wound on parietal region. His grand-mother Indubai had sustained fracture on tibia which was grievous injury. Considering nature of injuries, section 307 of the Indian Penal Code was added.

5. Learned counsel for the applicant submits that grand-mother was assaulted under the misconception. That both the injured had recovered.

6. In view of the fact that the Applicants are in custody since more than six months, the Applicants deserve to be enlarged on bail.

7. However, the observations are restricted to the application under section 439 of the Code of Criminal Procedure, 1973 and the same shall not be considered for discharge or at the time of trial.

8. Hence, following order is passed:

ORDER

(i) Both the applications are allowed.

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

- (iii) The Applicants shall not tamper with the evidence.
 - (iv) the Applicants shall not reside in village Balpute till conclusion of the trial.
9. Both the applications are disposed of accordingly.

[SMT. SADHANA S. JADHAV, J.]