

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

BAIL APPLICATION NO.1538 OF 2018

Pandurang Sunil Paygude Applicant

Vs.

The State of Maharashtra Respondent

Mr. M.S. Mohite I/by Mr. Prashant Mohan Patil for the Applicant.
Mr. Y.Y. Dabke, APP for the State.

Coram : Smt. Sadhana S. Jadhav, J.

Date : 8th August, 2018

P.C.:

1 Heard the learned counsel for the applicant and the learned APP.

2 This is an application under Section 439 Code of Criminal Procedure. The applicant herein is arrested on 4th February 2018 in Crime No.13 of 2018, registered at Haveli Police Station for the offences punishable under Sections 302, 307, 325, 143, 147, 148, 149, 323, 504, 506 of Indian Penal Code and 135 of Maharashtra

Police Act. The investigation is completed and the charge-sheet is filed.

3 It is the case of the prosecution that on 25th January 2015, Tukaram Dnyanoba Kadam lodged a report at the police station alleging therein that on 24th January 2018 in the afternoon, they were demarcating the boundaries of the agricultural land. He had seen that Sunil was cutting bomboo of his agricultural land with the help of his labourers. He had objected the same, upon which, he abused and manhandled him. In the evening, Sunil, his son Ganesh, Pandurang and his cousin Mohan Pralhad Paygude had been to the house of the complainant. They were armed with sticks. They had mounted assault upon the son of the complainant namely Chaitanya. The present applicant had assaulted his brother Sudam with a stick. He had also assaulted the other members of the family. The people from the village had intervened to pacify. Thereafter they had been to Jagtap Hospital for treatment.

4 Learned counsel for the applicant submits that there was altercation and that Ganesh lodged a report at the police station about the same incident, on the basis of which crime is registered. According to the learned counsel for the applicant in fact the applicant had been for settling the quarrel to the house of the complainant and at that time they were assaulted and therefore they had retaliated in defence. Taking into consideration the scene of offence. This argument would be unfounded. However, it is seen that the deceased Sudam was taken to Jagtap Hospital. There were sutures on his head. He was treated as an indoor patient. He was operated for subdural haemorrhage and he had succumbed to the said injury on 4th February 2018 and therefore the offence under Section 307 of Indian Penal Code was converted to 302 of Indian Penal Code.

5 Learned counsel for the applicant submits that medical intervention could be one of the cause of death, as the members of both the families were injured. The co-accused have

been enlarged on bail. It appears from the papers of investigation that it was an altercation between both the groups over a trifling issue. However, taking into consideration the fact that it would be difficult to ascertain at this stage as to who was the aggressor and that initially the offence was registered under Section 307 of Indian Penal Code, the applicant deserves to be enlarged on bail.

5 The observations are prima facie in nature and shall not be considered for discharge application or at the time of trial. Hence, the order :

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/- with one or more solvent sureties in the like amount.
- iii) The applicant shall not reside in Taluka Haveli till conclusion of the trial.

(Smt. Sadhana S. Jadhav, J)