

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

BAIL APPLICATION NO. 2863 OF 2017

Santosh Dattatray Chopade. ... Applicant.

Versus

The State of Maharashtra. ... Respondent.

Mr. Vikas B. Shivarkar, advocate for Applicant.

Mr. N.B. Patil, APP for State.

**CORAM : SMT.SADHANA S. JADHAV,J
DATE : FEBRUARY 6, 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 5/3/2017 in Crime No. 36 of 2017 registered at Wadgaon Mawal Police Station initially for offence punishable under section 307 of the Indian Penal

Code. Investigation is completed and charge-sheet is filed on 29/5/2017.

3 It is the case of the prosecution that on 3/3/2017 Sandeep Sitaram Chopade lodged a report at the police station alleging therein that there was a civil dispute between the parties. The applicant happens to be the cousin of the first informant. The complainant was working in Mahindra and Mahindra Company and his father was cultivating their agricultural land. The complainant was living as neighbour of the present applicant for some time. Initially there were cordial relations between the parties. There was a dispute between the parties over land Gut No. 439 admeasuring 20 gunthas. It is alleged that another cousin of the complainant namely Ganesh Chopade had sold 13 gunthas of land in favour of one Mr. Bhegade. They had even issued receipts towards advances in respect of sale of the agricultural land.

4 It is alleged that the present applicant had raised quarrel with the complainant and his cousin over the sale of the land. The applicant had allegedly asked the father of the complainant to vacate the house. Soon thereafter, the applicant had brought wooden log from his Maruti Car to assault the complainant. The father of the complainant had foreseen that there was an apprehension of danger to his son and therefore had intervened to rescue the son. The applicant herein had given a blow of the wooden log on the head of the father of the complainant.

5 The injured had instantaneously fallen unconscious. He was taken to Matoshri Hosptal at Wadgaon. He had sustained fracture of the scalp. The injured was incubated. On 7/3/2017 he was unconscious. He could not recover and had succumbed to the said injury.

6 The learned Counsel for the applicant submits that in fact, the applicant had no intention of causing homicidal death of the injured

or the complainant. That he only intended to assault the complainant. There are no criminal incidents. It is also submitted that injured could have been saved due to proper medical intervention. It is also submitted that the applicant had not taken undue advantage of the situation. That they are relatives.

7 Taking into consideration the case of the prosecution and the submissions advanced across the bar, this Court is of the opinion that the applicant deserves to be enlarged on bail by imposing certain stringent conditions.

8 However, the observations made hereinabove 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 while deciding application for quashing of FIR, discharge application or at the time of trial.

9 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 at village - Pimpri Waghere till conclusion of trial.
- (iv) The applicant shall not tamper with the evidence.

10 The application is disposed of accordingly.

(SMT. SADHANA S. JADHAV,J)