Veraval, in Sessions Case No. 56 of 2001 is hereby quashed and set aside. The appellant is acquitted of the charges leveled against him under section 498A of the Indian Penal Code. Fine, if any, deposited by the appellant be refunded to him.

Bail bonds furnished by the accused stand discharged. R & P to be transmitted back to the concerned Trial Court forthwith. Criminal Appeal is disposed of.

Result:- Appeal allowed.

ABC 2019 (I) 272 BOM
ACQUITTAL & BAIL CASES

HIGH COURT OF BOMBAY

(V.L. Achliya, J.)
926 Bail Application No. 1276 Of 2018
Decided on 1 November, 2018
Aurangabad Bench

VASANT S/O. LIMBAJI KARE AND ANR. - Applicant(s).

Versus

STATE OF MAHARASHTRA - Respondent(s).

Law Covered:- ***(A) Code of Criminal Procedure, 1973 — Section 439 — Regular Bail — Indian Penal Code, 1860 — Sections 326, 147, 148, 149, 504, 506 & 427— Nature of injury — Some of the victims sustained simple injuries & two victims sustained some fracture injuries — Nature of weapon — injuries caused by hard and blunt object— All other accused released on bail— Nature of offence —not punishable with life imprisonment or hang till death — Held, It is not desirable to detain the applicant in jail till completion of trial — Incident occurred all of a sudden on account of land dispute — No past record of serious offence — Considering the overall nature of offence, accusations, status of investigation, impact of release of applicants on bail and possibility of their abscondance— Bail granted. (Para 7 & 8)***

Held:- Thus, if we consider the facts stated in the F.I.R., then the incident was not pre-planned and occurred all of a sudden. More over, the incident was occurred on account of uprooting 3 rows of Soybin plants planted in the field of informant. As the family of informant suspected that the act of uprooting Soyabin

plants has been committed by the applicants, they enquired from the applicants. Perusal of medical report of injuries sustained by the informant and two other persons, then all injuries are shown to be simple in nature and caused by hard and blunt object. However, report of Radiologist reveals that the complainant and Sumanbai, the mother of informant, found to have sustained some fracture injuries. All other accused other than applicants are released on bail. It is, therefore, not desirable to detain the applicant in jail till completion of trial. The offences are not punishable with life imprisonment or hang till death. (Para-7)

Thus, considering the overall nature of offence, accusations against the applicants, status of investigation, impact of release of applicants on bail and possibility of their abscondance, I am of the view the applicants deserves to be enlarged on bail. All other accused except the applicants are released on bail. The incident occurred all of a sudden on account of land dispute with the informant. The applicants are not having any past record of involvement in commission of serious offence. It is not desirable to keep the applicants behind the bars till conclusion of trial. In the facts and circumstances of the case, the applicants deserves to be released on bail subject to certain conditions. Hence, the following order is passed. (Para-8)

Counsel:- ***For Applicant(s):*** *Mr. V.D.Gunale & Mr. M.S.Adate, Adv.*
For Respondent(s): *Mr. A.S.Shinde, Adv.*

ORDER

V.L. ACHLIYA, J.:- 1. The applicants have moved this application u/s 439 of Cr.P.C., 1973 seeking release on bail in connection with the offences punishable u/s 326,147,148,149,504,506,427 of I.P.C. registered vide Crime No. 113/2018 with Rural Police Station, Taluka and District Latur.

2. Heard learned counsel for applicants and learned A.P.P. for State. Perused the papers of investigation.

3. Mr. Gunale, learned counsel for applicants submits that though the prosecution has registered the offence u/s 326 of I.P.C., but the nature of injuries sustained by the injured in the incident make out no case to attract the offence u/s 326 of I.P.C. He submits that looking to the nature of injuries, at the most, offence u/s 323 or 324 of I.P.C. is attracted. By referring the facts relating to the incident

mentioned in the F.I.R., learned counsel submits that the incident was not pre-meditated but occurred all of a sudden on account of land dispute between the applicants and complainant. It is submitted that there was a long standing dispute between the applicants and complainant on account of agricultural land. The applicants as well as informant have filed cross suits against each other. Applicant No. 1 had also filed criminal complaint case for committing offence u/s 394,504,506 r/w sec. 34 of I.P.C. as against the informant and his family members, which is registered as R.C.C. No. 3292/2016 and pending in the Court of Chief Judicial Magistrate, Latur.

4. It is submitted that on account of old dispute, suddenly dispute crop up. In scuffle the applicants as well as informant sustained injuries. The applicants had visited police station to lodge complaint. However, the police refused to register the complaint and told them that next day they will call both parties and bring settlement between them. Since the statement of informant was recorded in hospital, the case came to be registered against the applicants. It is submitted that the applicants are law abiding citizens having no past record of involvement in criminal activity.p They have deep roots in the society. Out of 10 accused implicated in the case, except the applicants all other accused are released on bail. Some of the accused are granted anticipatory bail by the Sessions Court. By referring the order passed by Sessions Court, learned counsel submits that the application filed by applicant was rejected on the ground that investigation is in progress and medical reports are awaited. It is submitted that the incident was occurred on 22/08/2018. The applicants were arrested on 25/09/2018. Since then they are in jail. The investigation in the case is practically over. The medical reports are also available. In this back-ground, learned counsel urged to enlarge the applicants on bail. He further submits that the applicants are ready to abide by any condition that may be imposed in the event of their released on bail which includes not to enter village till filing of charge sheet.

5. On the other hand, learned A.P.P. opposed the application. By referring F.I.R., learned A.P.P. submits that the applicants are main accused involved in the commission of offence, who assaulted the informant and two other persons. By referring the injury certificate, learned counsel submits that out of 3 injured persons, 2 injured sustained fracture injuries. It is submitted that the injured were assaulted by means of stick, iron rod and axe. It is further submitted

that in case the applicants are released on bail, there is every likelihood that they may pressurize the prosecution witnesses who are from same village. It is further submitted that charge sheet in the case is likely to be filed within three weeks. He, therefore, urged not to enlarge the applicants on bail till filing of charge sheet. In alternative, learned A.P.P. submits that in case the applicants are enlarged on bail, at least a condition be imposed that they shall not enter into the village till filing of charge sheet.

6. Perusal of F.I.R. spell out that incident was not pre-meditated and occurred all of a sudden on account of old standing dispute between the family members of applicants with the family of informant. As per the version of incident given by the informant when the informant along with his mother Sumanbai went to his agricultural field, applicant No. 1 was present along with his wife, four children, brother and other members of family and carrying agricultural operation in their field. When the father of informant questioned, applicant No. 1 as to uprooting 3 rows of Soyabin in their field, the applicant No. 1 alleged to have abused the father of informant. When the informant and his wife went towards applicant No. 1, they were assaulted with wooden stick, iron rod and axe.

7. Thus, if we consider the facts stated in the F.I.R., then the incident was not pre-planned and occurred all of a sudden. More over, the incident was occurred on account of uprooting 3 rows of Soybin plants planted in the field of informant. As the family of informant suspected that the act of uprooting Soyabin plants has been committed by the applicants, they enquired from the applicants. Perusal of medical report of injuries sustained by the informant and two other persons, then all injuries are shown to be simple in nature and caused by hard and blunt object. However, report of Radiologist reveals that the complainant and Sumanbai, the mother of informant, found to have sustained some fracture injuries. All other accused other than applicants are released on bail. It is, therefore, not desirable to detain the applicant in jail till completion of trial. The offences are not punishable with life imprisonment or hang till death.

8. Thus, considering the overall nature of offence, accusations against the applicants, status of investigation, impact of release of applicants on bail and possibility of their abscondance, I am of the view the applicants deserves to be enlarged on bail. All other accused except

the applicants are released on bail. The incident occurred all of a sudden on account of land dispute with the informant. The applicants are not having any past record of involvement in commission of serious offence. It is not desirable to keep the applicants behind the bars till conclusion of trial. In the facts and circumstances of the case, the applicants deserves to be released on bail subject to certain conditions. Hence, the following order is passed.

ORDER

[i] The application is allowed.

[ii] Applicant No. 1 Vasant s/o Limbaji Kare and applicant No. 2 Raju s/o Vasant Kare arrested in connection with the offences punishable u/s 326,147,148,149,504,506,427 of I.P.C. registered against them vide Crime No. 113/2018 with Rural Police Station, Taluka and District Latur be released on bail on each of them furnishing bail in the sum of Rs.25,000/- [Rupees Twenty Five Thousand] with one or two sureties in the like amount on following conditions.

[a] The applicants shall not enter into local limits of Taluka Latur till filing of charge sheet against them.

[b] After filing of charge sheet, the applicants shall attend Rural police station, Latur on last day of each month in between 10.00 to 11.00 a.m. to record their presence before the Officer in-charge of police station.

[c] Pending disposal of the case against the applicants, they shall not tamper and pressurize the prosecution witnesses.

[d] Pending disposal of the trial against the applicants, they shall not indulged into commission of any act amounting to criminal offence.

[e] The applicants shall furnish the names and addresses of their three close relatives with their phone numbers.

[iii] In case of breach of any of above condition, the prosecution will be at liberty to move the Court for cancellation of bail.

[iv] Bail to be furnished in the trial Court.

9. The application disposed of in above terms.

***Result*:-**

March 2019