(v) The applicant shall not approach the complainant and shall not enter in the vicinity where the complainant resides and/or near the vicinity of the college where she is studying.

Result:- Criminal Bail Application allowed and disposed of.

ABC 2019 (I) 285 BOM
ACQUITTAL & BAIL CASES

HIGH COURT OF BOMBAY

(Mangesh S. Patil, J.)
Bail Application No. 68 of 2019
Decided on 29 January, 2019
Aurangabad Bench

BALAJI S/O SUDAM PITALE ***- Appellant(s).***

Versus

STATE OF MAHARASHTRA ***- Respondent(s).***

Law Covered:- ***Code of Criminal Procedure, 1973 — Section 439 — Regular Bail — Indian Penal Code, 1860 — Sections 307 & 452 — Investigation completed— Statement of the applicant witnesses recorded— Weapon recovered— Some of the witnesses have also been examined u/s 164, Code of Criminal Procedure, 1973 — No criminal antecedents— Motive attributed— alleged illicit relation between victim & wife of the accused — Held, there was a genuine reason for the applicant to be enraged— Single blow — Injury certificate — shows that the injury was simple though an incise wound— bail granted. (Para 5 & 6)***

Held:- Perused the papers of the investigation with the able assistance of the learned APP. As can be seen, apparently every step during the course of an investigation has been completed. Statement of the applicant witnesses have been recorded. The weapon has been recovered. Some of the witnesses have also been examined under Section 164 of the Cr.P.C. (Para-5)

There are no criminal antecedents. Though in the form of motive sought to be attributed, there was a genuine reason for the applicant to be enraged. Only one blow has been given. The injury certificate shows that the injury was simple though it was an incise wound. (Para-6)

Counsel:- ***For Appellant(s):*** ***Mr. S.S.Panale, Adv.***
For Respondent(s): ***Mr. A.S.Shinde, Adv.***

JUDGMENT

MANGESH S. PATIL, J.: - This is an application for bail under Section 439 of the Cr.P.C. by the accused from Crime No.205 of 2018 registered with Latur Rural Police Station, District Latur for the offences punishable under Sections 307 and 452 of the Indian Penal Code.

2. The prosecution case is to the effect that the applicant was suspecting that the informant was having an affair with his wife. He initially assaulted his wife at his home. Then he declared his intention to kill the informant. He took out a sword from his home and left for the house of the informant just prior to the incident dated 18.12.2018. It is alleged that between 4.00 p.m. to 4.15 p.m. he trespassed into the house of the informant and was about to give a blow of sword on his neck. The informant dodged it but he sustained injury on left cheek extending upto the ear. He was taken to Vivekanand Hospital, Latur and while undergoing treatment there, he lodged the FIR on 19.12.2018. The offence was registered. The applicant was arrested on 24.12.2018 and is now seeking bail.

3. The learned advocate for the applicant submits the entire investigation is over. Accepting the prosecution version, in all probabilities the applicant was enraged by the rumours about an affair between the informant and his wife. The weapon has already been discovered. Statements of the witnesses have also been recorded by the Investigating Officer as well as by the Magistrate under Section 164 of the Cr.P.C. Only formality of submitting the charge-sheet has remained to be complied with. There are no criminal antecedents. He is a family man having permanent place of residence. There is no likelihood of his jumping the bail and he may be granted bail subject to suitable conditions.

4. The learned APP opposes the application. He submits that the offence is serious. A deadly weapon like sword has been used. It was only fortunate for the informant that he could dodge the assault. The conduct of the applicant in declaring his intention is quite apparent from the statement of his wife. Even during the course of incident, he is alleged to have declared his intention and had thought that he had already killed the informant. The offence is serious and punishable upto life imprisonment. He has discovered the weapon. Thus there is a strong prima facie material revealing his complicity in

commission of the grave crime. The investigation is still not complete and he may not be granted bail.

5. Perused the papers of the investigation with the able assistance of the learned APP. As can be seen, apparently every step during the course of an investigation has been completed. Statement of the applicant witnesses have been recorded. The weapon has been recovered. Some of the witnesses have also been examined under Section 164 of the Cr.P.C.

6. There are no criminal antecedents. Though in the form of motive sought to be attributed, there was a genuine reason for the applicant to be enraged. Only one blow has been given. The injury certificate shows that the injury was simple though it was an incise wound.

7. It is under these circumstances, in my considered view, the applicant deserves to be released on bail subject to suitable conditions. Hence, I pass the following order :

ORDER

(i) The application is allowed.

(ii) The applicant shall be released on bail on his executing a Personal Recognizance ofRs.15,000/- and furnishing a solvent surety in the like amount subject to the following conditions :

(a) He shall not enter the village Khopegaon Taluka and District Latur till filing of the charge-sheet.

(b) He shall attend the concerned Police Station as and when required by the Investigating Officer till filing of the charge- sheet and shall co-operate him.

(c) He shall not tamper the evidence or influence the witnesses.

(iii) Bail before the trial court.

(iv) It is made clear that the observations made herein above are confined to the decision of this application and the learned Trial Judge shall not feel influenced by them.

***Result*:-** Application allowed.