

Received on : 15/10/2022

Registered on : 15/10/2022

Decided on : 21/10/2022

Duration: 06 Days.

**IN THE COURT OF DISTRICT & SESSIONS JUDGE,
AT JUNAGADH**

CRIMINAL MISC.APPLICATION NO.597 OF 2022

Exh. : ____

APPLICANTS/ACCUSED:

1. Rameshbhai Arjanbhai Dangar,
Aged about: 48 years,
Occupation: Labour,
Religion: Hindu,
2. Rahulbhai Rameshbhai Dangar,
Aged about: 27 years,
Occupation: Labour,
Religion: Hindu,
3. Milan Sureshbhai Solanki,
Aged about: 24 years,
Occupation: Labour,
Religion: Hindu,

All R/o.Padariya, Dist.Junagadh.

Versus

OPPONENT:

The State of Gujarat,
Summons Through: The Public Prosecutor,
Junagadh.

(Rohen K. Chudawala)
Sessions Judge
Junagadh

APPEARANCES:

Mr.J.A.Chandekar, L.A. for the applicants.
Mr.N.K.Purohit, Id.P.P. for the State
for Ms.M.P.Vaghela

**BAIL APPLICATION UNDER SECTION 439 OF THE
CODE OF CRIMINAL PROCEDURE****-: J U D G M E N T :-**

1. By way of the present application preferred under **Section 439** of the Code of Criminal Procedure Code, 1973, the applicants/accused, **(1)Rameshbhai Arjanbhai Dangar, (2)Rahulbhai Rameshbhai Dangar and (3)Milan Sureshbhai Solanki**, have prayed to grant regular bail in connection with the offence registered vide **Cr.No.11203025220682/2022**, with **Junagadh Taluka Police Station**, for the offences punishable u/ss.326, 324, 323, 294(B), 143, 147, 148, 149 of I.P.C. r/w.Sec.135 of G.P.Act.
2. Pursuant to the notice issued upon the opponent-State of Gujarat, the Id.P.P. Shri N.K.Purohit has appeared for Id.Ad.P.P. Ku.M.P.Vaghela and concerned I/c.P.S.I. of Junagadh Taluka Police Station, Junagadh for Junagadh Taluka Police Station, has filed his affidavit vide Exh.-10 resisting the bail

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application.

3. Heard Ld.Advocate Shri J.A.Chandekar for the applicants/accused and Ld.P.P. Shri N.K.Purohit for Ld.Ad.P.P. Ku.M.P.Vaghela for the opponent-State. Read the application. Perused the papers produced by the applicants/accused. Also perused the Police papers made available to this Court and affidavit of the I/c.P.S.I.
4. Ld.Advocate Shri J.A.Chandekar, for the applicants/accused has courteously submitted that in the present application, the complainant has taken the objections but has not stated the fact that cross complaint is lodged. He has also submitted that there is a matrimonial dispute and complainant and witness have been discharged from the hospital and medical certificate in this has been produced on record. He has also submitted the applicants/accused are innocent persons and they are not the persons who will flee away from justice. He has thus urged that the present applicants/accused be enlarged on bail subject to certain conditions. Ld.Advocate for the

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applicants/accused has filed his written arguments vide Exh.-11.

5. *Per contra*, Ld.P.P. Shri N.K.Purohit for Ld.Ad.P.P. Ku.M.P.Vaghela, for the State, has vehemently opposed this application. He has submitted that in view of the affidavit filed by the I/c.P.S.I., necessary orders be passed. The original complainant has filed his objections vide Exh.-9.

6. It transpires from Police papers made available to this Court and from the affidavit of the I/c.P.S.I. that the applicants/accused, along with the other co-accused persons, is booked under the offences punishable u/ss.326, 324, 323, 294(B), 143, 147, 148, 149 of I.P.C. r/w.Sec.135 of G.P.Act. It transpires from the affidavit of the P.S.I. that investigation is going on and charge-sheet has not been yet filed. I have also gone through the objections raised by the original complainant at Exh.-9.

6.1 The role attributed to the accused persons, as per the affidavit of the I/c.P.S.I., is to the extent that as there was matrimonial

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dispute between the parties, the complainant and witness had gone to the house of the accused for solving the dispute whereby the accused Nos.1 to 3 had started altercation and while the accused No.2 had tried to inflict blows of axe and while the complainant had fallen in between to separate them, at that time, accused Nos.4 to 7, forming unlawful assembly, came over the motorcycle with deadly weapons and the accused No.7 had inflicted blow with Dhariya on the left eye of the complainant, accused No.2 had given axe blow on the head of the witness, accused Nos.1, 3, 4, 5 and 6 had beaten the complainant and witness with wooden stick, spoken abusive words and in connivance with each other, accused have committed the present offence.

6.2 The I/c.P.S.I., in his affidavit, has expressed his dire apprehensions to the extent that if enlarged on bail, the applicants/accused would pressurize the complainant and witnesses for compromise, would damage the prosecution case, would flee away and will not remain present before the Court. It further transpires that the injured

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have absconded from the hospital. It further transpires that the matrimonial dispute gave rise to the present offence.

6.3 Considering the nature and seriousness of the offences, severity of the punishment prescribed for the said offences coupled with the fact that the investigation is going on and charge-sheet has yet not been filed, considering the apprehensions expressed by the I/c.P.S.I. in his affidavit, I am not inclined to exercise my judicial Hence, the following final order is passed:

-: ORDER :-

- (1) This application moved by applicants/accused (1)Rameshbhai Arjanbhai Dangar, (2)Rahulbhai Rameshbhai Dangar and (3)Milan Sureshbhai Solanki for grant of regular* bail, hereby stands **REJECTED**.
- (2) Yadi be sent to concerned Police Station.

Signed and pronounced in the open Court on this 21st day of October, 2022.

Date:21/10/2022
Place:Junagadh

(ROHEN K. CHUDAWALA)
District & Sessions Judge
Junagadh
UIC No.GJ01317

(Rohen K. Chudawala)
Sessions Judge
Junagadh