

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

931 BAIL APPLICATION NO. 1290 OF 2020
WITH
CRIMINAL APPLICATION NO. 2181 OF 2020
IN BAIL APPLICATION NO. 1290 OF 2020

SYED MUMTAZ S/O SYED GAFOOR
VERSUS
THE STATE OF MAHARASHTRA

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Advocate for Applicant : Mr. Vakil Afzal Husain M.
APP for Respondent-State : Mr. A. S. Shinde
Advocate to assist APP : Mr. Sachin S. Shinde

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CORAM : V. K. JADHAV, J.
DATED : 03RD DECEMBER, 2020

PER COURT :-

1. Heard learned counsel for the applicant in Criminal Application No. 2181 of 2020. For the reasons stated in the application, the applicant is permitted to assist the APP. The application is accordingly disposed off.

2. The applicant in Bail Application No. 1290 of 2020 is seeking regular bail in connection with Crime No. 427 of 2020 registered with Jinsi Police Station, Aurangabad for the offence punishable under sections 449, 395, 427, 504 and

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506 of IPC. His application with similar prayer bearing Bail Application No. 1508 of 2020 came to be rejected by the Additional Sessions Judge, Aurangabad vide order dated 19.10.2020.

3. Learned counsel for the applicant submits that the investigation is over for all practical purposes and the formality of filing charge sheet is only remained. Learned counsel submits that a civil dispute is going on in respect of a piece of land between the informant on one side and the applicant on the other side. Learned counsel submits that in respect of the incident occurred on the same date, time and place, co-accused Sayed Athar has lodged a complaint against the son of the informant and seven others for having committed the offence punishable under Sections 307, 323, 143, 147, 148, 149 and 406 of IPC. On the basis of his complaint, crime no. 428 of 2020 came to be registered in the same police station. Learned counsel submits that the present applicant was seriously injured in the said incident and he got admitted in the hospital for a considerable

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period. Learned counsel submits that after his discharge from the hospital, the applicant came to be arrested in connection with the present crime. The applicant has his roots in the society. The applicant is available for trial. The applicant is ready to abide the conditions if imposed by this Court while releasing him on bail. The applicant may be released on bail.

4. Learned APP, assisted by learned counsel Mr. S. S. Shinde, has strongly resisted the application on the ground that the investigation is in progress. Learned APP submits that name of the applicant is mentioned in the FIR with a specific role attributed to him. Learned APP submits that there are near about seven crimes registered against the applicant. He is a history sheeter. There is possibility of tampering with the prosecution evidence. The applicant may not be released on bail.

5. On going through the allegations made in the complaint and on perusal of the investigation papers, though

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I find name of the applicant mentioned in the FIR, however, the role attributed to the applicant is limited to the extent that he has broken the glass of the window of the applicant's house with the help of a stick. It further appears that in respect of the incident occurred on the same date, time and place, co-accused Sayed Athar has lodged a complaint in the same police station against the son of the informant and seven other persons and on the basis of his complaint, crime no. 428 of 2020 came to be registered. On perusal of the copy of the said FIR, it appears that the present applicant has sustained a bleeding injury on his head and he got admitted in hospital for treatment of the said injury. Learned APP has also fairly accepted that after the applicant's discharge from the hospital, the applicant came to be arrested in connection with the present crime.

6. It appears that in view of the civil dispute between the parties, there was almost a free fight between two groups and as a result thereof, both the groups have lodged complaint against each other. In view of the same, the

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individual acts of each and every accused are required to be considered. In the instant case, allegations have been made against the co-accused persons about taking away the cash amount so also threatening the informant. So far as the applicant is concerned, the allegations have been made against him to the limited extent that along with some other co-accused persons, he has broken the glass of the window of the informant's house. Even though there is criminal history of the applicant, considering the cross complaint and the fact that the applicant also got seriously injured in the said incident, I am inclined to release the applicant on bail with certain conditions. Hence, following order.

O R D E R

- I. The application is hereby allowed.
- II. The applicant SYED MUMTAZ S/O SYED GAFOOR be released on bail in connection with Crime No. 427 of 2020 registered with Jinsi Police Station, Aurangabad for the offence punishable under sections 449, 395, 427, 504 and 506 of IPC, on his furnishing P.B. of Rs.20,000/- with one vre/-

solvent surety of the like amount on the following conditions

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a] The applicant shall not tamper with the prosecution evidence in any manner.

b] The applicant shall attend the concerned police station once in a week i.e. on every Sunday between 08.00 a.m. to 11.00 a.m. till filing of the charge sheet.

III. Application is accordingly disposed of.

(V. K. JADHAV, J.)

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