

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

**915 BAIL APPLICATION NO.26 OF 2022
WITH APPLN/356/2022 IN BA/26/2022**

Ijar @ Raja Abdul Rajjak Khan
Age: 20 years, Occu.: Business,
R/o. Hamza Apartment, Room
No.14, Mulla Coloney, Dhule
District Dhule.

..Applicant

VERSUS

The State of Maharashtra,
Through it's Police Inspector,
Chalisgaon Road Police Station,
Dhule, District Dhule.

..Respondent

...
Advocate for Applicant : Shri N. L. Choudhari
APP for Respondent No.1 : Shri G.O.Wattamwar
Advocate for Informant : Shri G.R.Syed

...
CORAM : M.G.SEWLIKAR, J.

DATE: 3rd March, 2022

PER COURT :-

1. By this application, applicant is seeking enlargement on bail in connection with Crime No.077 of 2020, registered with Chalisgaon Road Police Station, District Dhule under Sections 302, 323, 143, 147, 148, 149 of the Indian Penal Code.
2. The allegations as contained in the FIR lodged by the father of the deceased are that he received a phone call from the son of

the informant by name of Tahir that there was a quarrel between Ikram Rajjak Khan and Tahir. At about 10:25 p.m., Tahir informed the informant that deceased Bashit had sustained injury by knife. A little while later, again Tahir informed the informant that Bashit gave oral dying declaration to Tahir that Bashit was assaulted by Abdul Rajjak Liyakat Khan, Imran Khan Abdul Rajjak Khan, Pallu Abdul Khan, Ikran Rajjak Khan, Ijar @ Raja Rajjak Khan (applicant). The applicant punched the deceased and Imran Khan Abdul Rajjak Khan stabbed the deceased in the abdomen and also on back. On these allegations, FIR came to be lodged on the basis of which Crime under the aforesaid Sections came to be registered.

3. Heard Shri N.L.Choudhari, learned counsel for the applicant, Shri G.O.Wattamwar, learned APP for the respondent-State and Shri G.R.Syed, learned counsel for the informant.

4. Shri Choudhari, learned counsel for the applicant submits that in CCTV footage, applicant is shown to have been assaulted the deceased by means of a knife. In the statement of Tahir under Section 164 of the Code of Criminal Procedure, he has stated that the deceased had given him oral dying declaration that applicant had assaulted him by knife. FIR shows that Tahir

had informed the informant that the deceased was assaulted by Imran Khan Abdul Rajjak Khan. Eye witnesses do not mention the name of the applicant as the person who assaulted deceased Bashit. He, therefore, submits that in view of this contrary version, applicant is entitled to be released on bail.

5. Shri G.O.Wattamwar, learned APP for the respondent-State and Shri G.R.Syed, learned counsel for the informant submit that there is no contradictory version. CCTV footage shows that deceased was assaulted by the applicant. Oral dying declaration also implicates the applicant. They submit that the FIR is based on hear say evidence. They submit that offence is serious in nature and therefore, applicant may not be released on bail.

6. In statement under Section 164 of the Code of Criminal Procedure, brother of the deceased by the name of Tahir has stated that deceased Bashit had given him oral dying declaration that applicant was the person who had assaulted him. However, in the FIR, it is mentioned that Tahir had given information to the informant that Bashit was assaulted by Imran Khan Abdul Rajjak Khan. Eye witnesses do not mention the name of the applicant as the person who assaulted deceased Bashit. In view of this, during the trial only, it will be clear as to who assaulted

deceased Bashit by means of knife. At this *prima-facie* stage and in view of the contradictory version, I am inclined to release the applicant on bail. Applicant has no criminal antecedents. He is not likely to flee from justice as he has permanent residence at Dhule. Hence, the order :-

ORDER

- i) Bail Application is allowed.
- ii) Applicant be released on P.R.Bond of Rs.75,000/- (Rs. Seventy-five thousand only) with one solvent surety in the like amount, in connection with Crime No.077 of 2020, registered with Chalisgaon Road Police Station, District Dhule under Sections 302, 323, 143, 147, 148, 149 of the Indian Penal Code, and on condition that he shall not leave the jurisdiction of the concerned Court without the permission of the concerned Court, shall not tamper the prosecution evidence and shall not enter Dhule Town except for attending the dates fixed during the trial.
- iii) Bail Application is disposed of.
- iv) Criminal Application filed for assist to Public Prosecutor is also disposed of.
- v) It is clarified that the observations made in this order are restricted to the decision of this application only and the trial Court shall not get influenced by the same and can come to its independent conclusion during trial.

**(M.G.SEWLIKAR)
JUDGE**