

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO.553 OF 2022
WITH
CRIMINAL APPLICATION NO.1565 OF 2022

SACHIN SURESH SOLUNKE
VERSUS
THE STATE OF MAHARASHTRA

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Mr. P.P. More, Advocate for the applicant
Mr. A.A. Jagatkar, APP for the respondent
Mr. S.S. Dargad, Advocate for assist to APP

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CORAM : SMT. VIBHA KANKANWADI, J.
RESERVED ON : 29th APRIL, 2022
PRONOUNCED ON : 05th MAY, 2022

ORDER :

1 Criminal Application No.1565 of 2022 moved for assist to APP stands allowed and disposed of.

2 The applicant has been arrested on 29.07.2021 in connection with Crime No.129/2021 dated 18.05.2021 registered with Nilanga Police Station, Dist. Latur, for the offence punishable under Section 302, 307, 324, 323, 143, 147, 148, 149, 504, 506 of the Indian Penal Code, 1860 and under

Section 135 of the Maharashtra Police Act, 1951.

3 Heard learned Advocate Mr. P.P. More for the applicant and learned APP Mr. A.A. Jagatkar, well assisted by learned Advocate Mr. S.S. Dargad for the informant.

4 It has been vehemently submitted by the learned Advocate Mr. P.P. More appearing for the applicant that even after consideration of the First Information Report and the statements of witnesses it can be seen that no specific role has been attributed to the present applicant, though his presence has been shown. It is stated that many persons along with the applicant and the applicant were holding sticks and they had assaulted the informant and his father. It is stated that accused Siddheshwar Tanaji Mane had caught hold of the informant and told that the informant as well as his father would be killed and then he had tried to stab informant in his stomach. But that assault was avoided by the informant by his right hand. Co-accused had thereafter assaulted him by sticks. It is then stated that those persons had also assaulted the father of the deceased with stick. As a result of which his father fell down. His father has succumbed to the injuries. The applicant cannot be said to be the author of the crime. The evidence against the applicant is that of discovery of the stick under Section 27 of the Indian

Evidence Act. The FIR is in fact, against 22 persons and it is stated that all of them were holding sticks; yet, the Postmortem Report would show that there were nine injuries on his person and the probable cause of death is due to head injury with intracerebral bleeding. The applicant is in jail for considerable time. He is ready to abide by the terms of the bail.

5 Per contra, the learned APP, well assisted by the learned Advocate Mr. S.S. Dargad for the informant, submitted that though the investigation is complete and charge sheet has been filed, it would be seen that out of 22 accused only four accused have been arrested and rest are still absconding. Perusal of the FIR would show that the father of the informant had given report against the accused persons in Aurad Police Station and because of that act the accused persons were annoyed with the deceased. It is a brutal murder and definitely when 22 persons had come along with the sticks the intention is very clear. The applicant was the member of that unlawful assembly and, therefore, sympathy need not be shown to him.

6 It appears from the contents of the First Information Report as well as statements of the witnesses that there was earlier dispute between certain persons and the family of the informant and those persons, who had quarrel along with some other persons, obstructed the road of the informant

and his father, who were proceeding on a motorcycle. Names of many persons have been taken by the informant along with the present applicant and it is stated that all of them were armed with stick. It is then stated that the accused persons asked the father of the informant that he should stop and they would kill today as he has given report against them with Aurad Police Station. Whether such dialogue can be said in chorus by all the accused persons, is a question. The informant then states that when the accused persons were abusing, brother and brother-in-law of the informant, who were coming behind, went towards Nilanga. At that time, even the father of the informant, who was driving the motorcycle, on which he as well as the informant were travelling, took the vehicle towards Sindkhed Gujarga kachcha road and then it is stated that all the accused persons were following them with sticks and stones. They left the vehicle in the streamlet from the field of one Dilip Bolsure and started running. Informant's father was caught and he was assaulted with sticks and stones as well as kicks and fist blows. When the father was shouting for help and asking the accused persons as to what he has done, accused Siddheshwar Mane caught hold of the informant and by saying that he and his father would be killed, tried to stab with knife, which he resisted with his right hand, causing him injury. Thereafter it is stated that accused Vyankat Mane, Dipak Salunke, Vikram Salunke, Bibhishan Pawar, Shekhar Pawar and Rahul Pawar assaulted informant by

stick on his back, stomach, hands, thighs etc. He fell down. Then he says that his cousin brother Ram Satbhai after seeing that these persons were assaulting the informant and his father ran away towards Yelnur village. The informant then says that all the accused persons, who had come in three vehicles, assaulted his father with sticks and fist blows. His father fell on the ground and then it is stated that the father was taken by the accused persons in white colour Bolero jeep towards Yelnur. Informant then says that he went in fear towards Sindkhed village and stopped on the road near school. Thereafter his father was brought in a jeep by his mother, cousin sister etc. and was taken to Government hospital. It was then told to him by the brother that the accused persons had thrown the father near Tukaram Mandir by the side of the river and they had fled away from that spot.

7 Thus, it is to be noted that the First Information Report does not say about the specific role of the applicant. It is along with co-accused who were 22 in number. The Postmortem Report shows nine injuries on the person of deceased and the probable cause of death is head injury. Definitely, even the statements of the eye witnesses are not disclosing that the applicant is the author of that injury. Under such circumstance, when he is in jail for long time and his trial would take considerable time to stand, in view of the fact that only four accused persons out of 22 accused have been arrested and

rest of them are still absconding, he deserves to be released on bail. Hence, following order.

ORDER

- 1 Application stands allowed.
- 2 Applicant viz. **Sachin Suresh Solunke**, who has been arrested in connection with Crime No.129/2021 dated 18.05.2021 registered with Nilanga Police Station, Dist. Latur, for the offence punishable under Section 302, 307, 324, 323, 143, 147, 148, 149, 504, 506 of the Indian Penal Code and under Section 135 of the Maharashtra Police Act, be released on PR. Bond of Rs.50,000/- (Rupees Fifty Thousand only) with two solvent sureties of Rs.25,000/- (Rupees Twenty Five Thousand only) each.
- 3 The applicant shall not indulge in any criminal activity nor he should tamper with the prosecution evidence, in any manner.
- 4 He should cooperate with the investigation
- 5 Bail before Trial Court.

(Smt. Vibha Kankanwadi, J.)