

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

BAIL APPLICATION NO. 977 OF 2022

Shivaji @ Shivhar Tukaram Potphale

..APPLICANT

VERSUS

State of Maharashtra

..RESPONDENTS

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Mr. A.D. Gade, Advocate for applicant

Mr. D.R. Kale, I/c Public Prosecutor for respondent – State

Mr. G.A. Kulkarni, Advocate h/f Mr. D.R. Deshmukh, Advocate for informant

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CORAM : R.G. AVACHAT, J.

DATE : 28th JULY, 2022

PER COURT :

1. This is an application for bail under Section 439 of Code of Criminal Procedure. The applicant has been arrested in connection with Crime No. 177 of 2021 registered with Sonkhed Police Station, Dist. Nanded for the offences punishable under Sections 307, 395, 327, 326, 324, 143, 147, 148, 149, 504 and 506 of the Indian Penal Code ('I.P.C.').

2. Heard. Perused the First Information Report ("F.I.R.") and related police papers.

3. The applicant has not been attributed with any overt act. He is alleged to have been armed with an iron rod and was guarding the assaulters.

It is the case of the prosecution that he was not allowing the villagers to intervene to save the victims. True, the role attributed to the applicant in the present crime can be based on Section 149 of the I.P.C. However, since no overt act has been attributed to him, the Court is inclined to grant him bail.

4. In view of above, the application deserves to be allowed. Hence I pass the following order :-

ORDER

(I) The bail application is allowed.

(II) The applicant be released, in connection with Crime No. 177 of 2021 registered with Sonkhed Police Station, Dist. Nanded for the offences punishable under Sections 307, 395, 327, 326, 324, 143, 147, 148, 149, 504 and 506 of the Indian Penal Code, on executing P.R. Bond in the sum of Rs.15,000/- (Rupees Fifteen Thousand) with one surety in the like amount.

(III) The applicant shall not enter village Shevadi (Bajirao), Tq. Loha, Dist. Nanded till conclusion of trial.

(IV) The applicant shall not tamper with the prosecution evidence.

(R.G. AVACHAT, J.)