

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

BAIL APPLICATION NO. 1377 OF 2022

Narayan Bapusaheb Pardeshi	... Applicant
Versus	
The State of Maharashtra	... Respondent

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Mr. Nilesh S. Ghanekar, Advocate for applicant
Mr. S. P. Sonpawale, APP for respondent - State

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**WITH
CRIMINAL APPLICATION NO. 2960 OF 2022**

Dattatraya Bhausahab Pansare	... Applicant
Versus	
Narayan Bapusaheb Pardeshi and another	... Respondents

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Mr. S. S. Thombre, Advocate for applicant
Mr. Nilesh S. Ghanekar, Advocate for respondent No.1
Mr. S. P. Sonpawale, APP for respondent No.2 - State

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CORAM : R. G. AVACHAT, J.
DATED : 19th SEPTEMBER, 2022

PER COURT :-

1. Criminal Application No. 2960 of 2022 is allowed. The original complainant is permitted to assist the learned APP.

2. This is an application for bail under Section 439 of the Code of Criminal Procedure. The applicant has been arrested in

connection with Crime No.0395/2021, registered at Belwandi Police Station, District Ahmednagar, for the offences punishable under Sections 307, 327, 324, 323, 427, 504, 506, 143, 147, 148, 149 of the Indian Penal Code and under Section 3/25 and 4/25 of the Arms Act.

3. Heard. Perused the First Information Report (FIR) and related papers.

4. The First Information Report (FIR) has been lodged by the victim himself. The incident is said to have occurred in the field belonging to the informant. From the record, it appears that it is the dispute over a right of way between the family of the informant and that of the applicants. On the given day, the informant had been to the field with a JCB. The applicants found that the JCB was being used to damage or dismantle the road. The applicants and the co-accused, therefore, pelted stones on the JCB. The photograph, which has been placed on record, indicates the JCB has suffered damage.

5. The FIR has been lodged against 17 persons. The informant has given graphic details of the incident as to how the

same took place. The co-accused is not before the Court who was alleged to have been armed with a firearm. Co-accused Shivaji is alleged to have assaulted on the head of the informant with a sword. A photograph of head injury is placed on record to influence the decision of this application since it is not part and parcel of the police papers. The injury certificate indicates the informant to have suffered 16 injuries. The medical papers on record indicate that the informant was indoor patient for about thirty days. First 6 – 7 injuries are stated to be grievous in nature.

6. The learned Advocate for the applicants would submit that there is a counter FIR. A person from the applicants side had also been assaulted. It appears none of them had suffered grievous injury and therefore no injury certificate has been placed on record. It is also informed that the informant runs an educational institution. He is financially well and an influential person in the area. It is also told that the informant is very much present before the Court. On the previous day also he was there. It is also told that the informant has criminal antecedents. He was also involved in an offense of murder.

7. The learned APP and the learned Advocate for the informant would, on the other hand, submit that the informant has been survived only with the grace of the God. Had the employees of the college not rushed immediately, the informant would not have been seen survived. According to them, all the family members have mountained an attack. Most of them were armed with weapons like sickle, sword and iron rod. The number of injuries suffered by the informant have also been referred to. They would further submit that similarly placed co-accused, Bhagwan has been denied bail by this Court. The applicant, therefore, needs to be treated similarly. Both the learned Advocates ultimately urged for rejection of the application.

8. On investigation, the charge-sheet has been filed. The informant appears to have been recovered of the injuries suffered. The applicant is 50 years of age. He is alleged to have assaulted the informant with iron rod. So far as regards applicant is individually concerned, it may be offence punishable under Section 326 of the Indian Penal Code. For the offence punishable under Section 307 I.P.C., his criminal liability is sought to be invoked constructively, under Section 149 of the I.P.C. The applicant has been behind the

bars for little over seven months. It will take time for commencement and conclusion of trial. I am therefore inclined to grant the application. Hence, following order:

ORDER

- (i) The Bail Application is allowed.
- (ii) The applicant be released on bail in connection with Crime No.0395/2021, registered at Belwandi Police Station, District Ahmednagar, for the offences punishable under Sections 307, 327, 324, 323, 427, 504, 506, 143, 147, 148, 149 of the Indian Penal Code and under Section 3/25 and 4/25 of the Arms Act, on his executing P. R. bond in the sum of Rs.15,000/- (Rupees Fifteen Thousand) with surety bond of the like amount.
- (iii) The applicant shall not tamper with the prosecution evidence.

[R. G. AVACHAT, J.]

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