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

BAIL APPLICATION NO.1472 OF 2022

**SUDESH DAGDU GAIKWAD
VERSUS
THE STATE OF MAHARASHTRA**

Mr Kamble Shirish M., Mr. Raka Anand Pravin, Advocate for
applicant;
Ms V.S. Choudhari, A.P.P. for respondent

CORAM : S. G. MEHARE, J.

DATE : 7th October, 2022

PC.

1. Heard the learned counsel for the applicant and the learned A.P.P. for the respondent.
2. The applicant seeks bail under Section 439 of the Code of Criminal Procedure in C.R. No.0558 of 2021, registered by Satara Police Station, Aurangabad, for the offences punishable under Sections 307, 143, 147, 148, 149, 149, 336, 427, 323, 504 and 506 of the Indian Penal Code.
3. It has been alleged against the applicant that he along with other co-accused went to the hotel of the complainant and asked him to provide them the food. The complainant told him that the hotel is now closed and they have not paid the bill for the earlier food. There was exchange of hot words between them. The applicant caught hold

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the injured and other co-accused Anil stabbed him in his stomach. The applicant was arrested on 25.12.2021. Since then he is languishing in jail.

4. The learned Additional Sessions Judge was pleased to reject the bail application of the applicant. Thereafter, the applicant approached this Court. However, he withdrew the application with a liberty to file a fresh application before the Sessions Court. Therefore, he filed another bail application before the learned Additional Sessions Judge. The learned Additional Sessions Judge, Court No.10, Aurangabad rejected his bail application by order dated 18.8.2022 holding that there was no change in circumstances and specific role has been attributed to the present applicant in the first information report.

5. The learned counsel for the applicant would submit that the investigation is complete. The charge-sheet is filed. The co-accused Anil has been released on bail by this Court. His role was more serious. However, the parity can be extended to the applicant. He would submit that nothing is to be recovered from the applicant. The applicant has to look after his mother who is suffering from neck pain, LBA, Hypocalcemic Cramp. He has placed on record the medical certificate of his mother dated 16.08.2022. He has also argued that there were no antecedents to the discredit of the applicant. The

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incident took place at the spur of the moment. The trial will take its own time. Hence, the applicant may be released on bail.

6. The learned A.P.P. has strongly opposed the application. She would argue that the applicant is the person who instigated the co-accused to assault the injured with deadly weapon like knife. The applicant and other co-accused had created a terror in the locality where the complainant runs hotel. The learned Sessions Court observed that if the applicant is released on bail, the possibility of repeating a serious offence in future cannot be ruled out. The applicant may tamper with the prosecution witnesses as they are residing in the same locality. The offence is serious. The applicant has no case for bail. Hence, the application may be rejected.

7. Perused the papers and considered the facts of the case. It is not in dispute that a quarrel took place in the hotel run by the complainant and one person got seriously injured. However, it is not in dispute that after eight days the injured was discharged from the hospital. The alleged knife has also been seized. The applicant's mother is ill and under the medical treatment. The co-accused who has assaulted the injured with knife has also been released on bail. There should be no purpose to keep the accused behind the bar. Normally, the bail is refused if the prosecution has an apprehension of tampering with the prosecution evidence or interference with the

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investigation. In the case in hand, the investigation has been completed and the charge-sheet has also been filed. The background of the accused is also one of the grounds to be considered for bail. The applicant has no antecedents to his discredit. The applicant is a young boy of 21 years and a student of B.A. final. This may also be one of the factors while considering the bail application. The other co-accused have already been released on bail, who have played active role. It appears that the trial may take its own time to open. If the applicant would be kept behind the bars for more period, he may get a stigma and lose the education. Until a charges are proved and a person is convicted, he is presumed to be innocent. Considering all the aspects of granting bail, the Court is of the view that the application deserves to be allowed. Hence, the following order:-

- i) The application is allowed.
- ii) The applicant be released on bail in C.R./F.I.R. No.0558 of 2021, registered at Satara Police Station, Aurangabad, on executing PB and SB of Rs.15,000/- with one solvent surety of the like amount, for offences punishable under Sections 307, 143, 147, 148, 149, 149, 336, 427, 323, 504 and 506 of the Indian Penal Code, on the condition that he shall not tamper with the prosecution witnesses. He shall help the administration to maintain the law and order. He shall

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not leave the place of his residence for three months from today,
without the leave of the Additional Sessions Court.

(S. G. MEHARE, J.)

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