

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

BAIL APPLICATION NO.1872 OF 2022

**RAJABHAU SARJERAO GAIKWAD
VERSUS
THE STATE OF MAHARASHTRA**

...
Advocate for Applicant : Mr. Arora Shyam C.
APP for Respondent/State : Mr. K.S. Patil
...

CORAM : S.G. MEHARE, J.

DATED : 29th NOVEMBER, 2022

PER COURT:-

1. Heard learned counsel for the applicant and learned APP for the State.
2. Learned counsel for the applicant would submit that the allegations levelled against the applicant does not appear probable. The prosecution has no evidence of premeditation. It is quite impossible not to witness the incident by independent witnesses as the incident allegedly happened on the bus stand. The eye witnesses are interested witnesses. How long the applicant would languish in the jail, he may be set at liberty. He also referred to the post mortem report and argued that the cause of death is not the result of the alleged assault. The prosecution story, assaulting for hand loan is also concocted. The applicant is the bread winner of his family. Hence, he may be released on bail.

3. Learned APP would submit that besides the relatives, the prosecution has one independent witness namely Shaikh Sartaj Shaikh Bashir. The incident happened on public place. The evidence of relatives cannot be thrown away for the reason that they are the relatives of the deceased or the person injured. Normally a person would not carry the weapon, but the applicant and his wife reached on the spot of incident with weapons. It is the evidence of premeditation. The cause of death was due to stabbing. The allegation of assault by the eye witnesses is supported with the medical evidence. The offence is serious and committed with premeditation; hence, the application be rejected.

4. Perused the application. The arguments of the learned counsel for the applicant that the case is improbable and there was no premeditation, appears incorrect, on facts. The incident happened on public place i.e. bus stand. May there be number of persons but it is not expected that everyone may witness the incident. However, the witnesses are supporting the prosecution that the incident happened on bus stand at 07.00 pm. Going the place of occurrence with weapon is sufficient to infer the premeditation. The assault is apparently probable. The allegations levelled against the applicant by the witnesses is supported with the post mortem report. The offence is grave and serious. Considering the principle to grant the bail and exercise the discretion, the Court is of the view that the applicant has

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no case for bail on merit. For the reasons stated above, the application stands dismissed.

(S.G. MEHARE, J.)

Mujaheed//