

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

**920 BAIL APPLICATION NO.1792 OF 2022**  
**WITH APPLN/3791/2022 IN BA/1792/2022**

1. YOGESH SHIVAJI PARDESHI  
2. BHAGWAN BAPURAO PARDESHI  
VERSUS  
THE STATE OF MAHARASHTRA

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Advocate for Applicants : Mr. N. S. Ghanekar, Mr. Bhosale  
Aniket Deepak.

APP for Respondent-State : Mr. S. B. Narwade.

Advocate for Complainant to assist APP : Mr. S. S. Thombare.

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**CORAM : S. G. MEHARE, J.**  
**DATE : 16.12.2022**

**PER COURT :-**

1. Heard the learned counsel for the applicants, learned APP for the respondent-State and learned counsel for the complainant at length.

2. This is a second bail application of the applicants. Their first bail application bearing No.596 of 2022 with Criminal Application No.1500 of 2022 was turn down by this Court by order dated 02.08.2022. However, the present applicants were granted liberty to withdraw the application with further liberty to move after six (6) months. Now, the applicants have come with the case that the co-accused who have attributed similar

role have been granted bail by this Court. Therefore, it is a change-in-circumstance. The applicants are entitled to bail on parity. As far as applicant Yogesh is concerned, it has been argued that though he allegedly assaulted the injured with sickle, but there were no external cut injuries. Therefore, his role cannot be segregated. The applicants are entitled to the bail.

3. The learned APP and learned counsel for the complainant seriously opposed the application. They would argue that they must respect the order of this Court dated 19.09.2022. In view of that order, the present application is pre-matured. It has also been argued that the bail granted to similarly situated accused subsequent to the rejection of the bail of co-accused; hence, parity cannot be extended. Role attributed to the applicants was serious. The weapons have been recovered at their instances. The injured has suffered eleven injuries. The applicants were absconding from February 2022. One crime under Section 394 of the IPC is also to their discredit. Considering the nature of the offence and their past, it would not be safe to grant them bail.

4. Learned counsel for the applicant would refer to the case of *Durgesh Vilas Patil Vs. State of Maharashtra and another*

(Appeal No.74 of 2019 of this Bench, decided on 02.05.2019).

In the said judgment, in paragraph No.14, the Division Bench of this Court has held that even though earlier bail application of the accused was rejected, release of other co-accused on bail subsequently and parity with those accused certainly constitutes change-in-circumstances.

5. In view of the ratio laid down by the Division Bench of this Court, the Court is of the view that the applicants cannot be refused bail only on the ground that their earlier bail application was rejected before granting the bail to other co-accused.

6. The FIR reveals that the allegations against the applicant Bhagwan are similar to the allegations levelled against co-accused Narayan, who has been granted bail. While granting bail, the same material was available before the Court. As far as the allegations against the applicant Yogesh is concerned, it has been alleged that he assaulted the injured with sickle. However, the medical certificate issued by the private hospital reveals that the weapon possibly used for causing injury to the complainant has been corrected and it has been shown that the fracture to right parietal bone was caused by hard and sharp weapon. However, the role attributed to the applicants with

co-accused that all the accused assaulted the injured with one weapon or the other looks similar. There was no material of a crime registered against the applicants under Section 394 of the IPC. Examining the papers, there appears similar role attributed to the applicants. Hence, they are entitled for bail on the ground of parity.

### **ORDER**

- (i) Bail Application is allowed.
- (ii) Applicant No.1. **YOGESH SHIVAJI PARDESHI** and Applicant No.2. **BHAGWAN BAPURAO PARDESHI** be released on bail on furnishing PB. and S.B. of Rs.50,000/- (Rupees Fifty Thousand only) each with one solvent surety of the like amount each, in Crime No.395 of 2021, registered by Police Station Belwandi, District Ahmednagar, for the offences punishable under Sections 307, 327, 324, 323, 427, 143, 147, 148, 149, 504, 506 of the IPC, Section 3/25, 4/25 of the Arms Act on the following conditions :
  - (a) The applicants shall not enter the village where the incident happened, for three (3) months.

- (b) They shall not tamper with the prosecution witnesses.
  - (c) They shall attend the trial on every effective date.
- (iii) Criminal application No.3791 of 2022 to assist the learned APP is allowed.

**(S. G. MEHARE, J.)**

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