

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

937 BAIL APPLICATION NO.610 OF 2023
WITH APPLN/1552/2023 IN BA/610/2023

DATTA LAHU SAWANT
VERSUS
THE STATE OF MAHARASHTRA

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Advocate for Applicant : Mr. Salunke Sudarshan J.
APP for Respondent-State : Mr. S. P. Deshmukh.
Advocate for Complainant to assist APP : Mr. Rajput D. K.,
Mr. Ravi G. Rathod.

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CORAM : S. G. MEHARE, J.
DATE : 18.04.2023

PER COURT :-

1. Heard the learned counsel for the applicant, learned APP for the respondent-State and learned counsel for the first informant.
2. The applicant is seeking bail in Crime No.7 of 2023, registered with Police Station Gondi, District Jalna, for the offences punishable under Sections 302, 324, 323, 143, 147, 148, 149, 504 and 506 of the IPC.
3. It has been alleged against the accused that he along with other co-accused came to the house of the injured and the deceased and assaulted them. It has been specifically alleged against the applicant that he assaulted the first informant and

caused injuries on his head with iron rod. They came at the house of the injured/first informant with an intention to kill. The father of the first informant died due to the injuries suffered in the incident.

4. Learned counsel for the applicant referred to the injury report of the injured that shows the simple injury. He further argued that the weapons allegedly used in the crime and the clothes wore by the applicant at the time of the alleged incident have been seized. It was not a premeditated act. The incident happened on the spur of the moment. There were no antecedents to his discredit. Hence, he may be granted bail.

5. Learned APP and the learned counsel for the first informant have opposed the bail application. They have vehemently argued that Section 149 of the IPC has been applied. Therefore, the applicant need not play specific role. He being a member of an unlawful assembly was liable to the acts of the other co-accused, who caused the death of the first informant's father. The offence is serious. The accused and the injured are the residents of the same village. Therefore, there is great possibility of repeating the crime. On this count, they prayed to reject the bail.

6. The FIR reveals that there were differences in two families over the land and damaging the crop due to grazing the animals by the deceased in the field of the applicant. There were quarrels over the said issue. They are the resident of the same locality and village. It seems that the incident happened in front of the house of the applicant. Both parties are neighbours. So, it would be inappropriate to believe at this juncture that it was premeditated incident and every accused in the incident had a common intention. Otherwise also, it is a matter of evidence before the Trial Court. The role attributed to the applicant is limited. The injured has suffered a simple injury. The weapons allegedly used in the crime and clothes wore by him at the time of the incident have also been seized. Charge sheet has also been filed. The apprehension of the prosecution that there may be another incident may be guarded by imposing certain conditions. However, considering the facts and circumstances of the case, it would be inappropriate to keep the applicant behind bar. Hence, the following order :

ORDER

- (i) Bail Application is allowed.

- (ii) Applicant **DATTA LAHU SAWANT** be released on bail on furnishing P.B. and S.B. of Rs.50,000/- (Rupees Fifty Thousand only) with one solvent surety of the like amount, in Crime No.7 of 2023, registered with Police Station Gondi, District Jalna, for the offences punishable under Sections 302, 324, 323, 143, 147, 148, 149, 504 and 506 of the IPC, on the following conditions :
- (a) The applicant shall not tamper with the prosecution witnesses.
 - (b) He shall not involve in a similar crime.
 - (c) The applicant shall stay away for three months from village Karanjala, Taluka Ambad, District Jalna.
- (iii) Criminal application No.1552 of 2023 to assist the learned APP is allowed.

(S. G. MEHARE, J.)

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vmk/-