

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO.724 OF 2023
WITH APPLN/1742/2023 IN BA/724/2023

AJEET BALAJI SOLUNKE
VERSUS
THE STATE OF MAHARASHTRA

...
Advocate for Applicant : Mr. Sachin S. Panale holding for
Mr. Somnath D. Nagode
APP for Respondent : Mr. K. S. Patil
...

CORAM : S. G. MEHARE, J.

DATE : 07-08-2023

PER COURT :-

1. Heard the learned counsel for the applicant and the learned A.P.P. for the respondent/State.
2. The applicant seeks bail in C.R.No.0312 of 2022 registered with Nilanga Police Station, Taluka Nilanga, District Latur, for the offences punishable under Sections 302, 307, 279, 337, 143, 147, 148, 149, 504 and 506 of the Indian Penal Code and Section 135 of the Maharashtra Police Act.
3. The applicant seeks bail on the ground that the four-wheeler car vehicle, namely, Creta was not used in the crime. On the contrary, at the time of alleged incident it was parked before one hospital. However, since a case was registered against the

deceased in which the applicant was involved, he has been falsely implicated in the crime. It is also argued that the police, on the basis of the CCTV footage, supplied to him, he made correct investigation and fairly stated that one Creta four wheeler was seen parked in front of hospital, but its registration could not be identified. He would also refer to the admission card of the deceased and would argue that at the time of admitting the deceased to Sahyadri hospital, history of road traffic accident was narrated. The spot panchnama further *prima facie* proves that it was purely a road traffic accident. *Prima facie* evidence which he has submitted to the police that at the time of the alleged incident, the Creta was found parked in front of the hospital in the CCTV footage has not been properly investigated. The witnesses who are stating against him were interested. Nothing is to be recovered from the applicant. Hence, he may be granted bail.

4. Per contra, the learned A.P.P. for the State and the learned counsel for the victim have vehemently opposed the application. The learned counsel for the victim would argue that the defence of alibi cannot be considered at this juncture. Whatever documents he has allegedly supplied to the Investigating Officer, are not the part of the chargesheet and not sufficient to believe that at the time of the alleged incident, the said Creta car was used in the crime. The witnesses supporting the applicant have been concocted and the false story of the defence of the *alibi* has been

developed after thought. One of the co-injured is seriously injured and still unable to speak. The cause of death is correctly observed in the postmortem report. On the day of the incident, the deceased and other witnesses were going to attend the trial in which they were the accused. It was a murder but pretended it to be a vehicular accident. In the absence of cogent evidence of the CCTV footage, the evidence of eyewitnesses would prevail. The eyewitnesses are consistent on the role played by the applicant. The serious offence of the murder has been committed. Hence, he may not be granted bail.

5. Perused the chargesheet.

6. It is not in dispute that the deceased was the accused in the case lodged against him in which the applicant had a role to play. Though the submissions were made to the Investigating Officer that the Creta car allegedly used in the crime was parked before one hospital at the time of the incident, its number has not been identified. In such a case, plea of *alibi* shall be considered on merit. As against this plea, the prosecution has number of eyewitnesses. One of the injured has suffered serious injuries and still unable to speak. The specific allegation has been levelled against the applicant that he assaulted the deceased alighting from Creta car by the iron rod and caused him injuries. Enmity is a double edged weapon, that may be used for either purpose. While

dealing with the application for bail, the Court has to consider *prima facie* case.

7. After having gone through the chargesheet and hearing the respective counsels, the Court is of the view that the prosecution has *prima facie* evidence showing the involvement of the applicant in the crime. The deceased and the injured were beaten mercilessly. The enmity was between them. Therefore, the possibility of committing a serious crime in future cannot be ruled out.

8. For the above reasons, it is not desirable to release the applicant on bail. Hence, the application stands dismissed.

9. Criminal application No.1742 of 2023 stands allowed.

(S. G. MEHARE)
JUDGE

rrd