

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

BAIL APPLICATION NO.1029 OF 2023

AKASH S/O RAOSAHEB RAUT
VERSUS
THE STATE OF MAHARASHTRA

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Advocate for Applicant : Mr. Sanjeev B. Deshpande, Senior Counsel
i/b. Mr. Chaudhari Chetan Barku
APP for Respondent/State : Mr. K.S. Patil

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CORAM : S.G. MEHARE, J.

DATED : JULY 10, 2023

PER COURT:-

1. Heard learned senior counsel for the applicant and learned APP for the State.
2. The applicant is seeking bail in Crime No.280 of 2023 registered with Sadar Bazar Police Station, District Jalna, for the offence punishable under Sections 307, 143, 147, 148 and 149 of the Indian Penal Code.
3. Learned senior counsel for the applicant would submit that the first informant, eyewitnesses and the injured are inconsistent as regards the assault. It was a case of a single blow. The other co-accused have been granted bail. Hence, he deserves parity. The recovery of the alleged weapon under Section 27 of the Indian Evidence Act is illegal and not admissible at this juncture. The statement of the injured was recorded a day before his discharge from

the hospital. Till then, the police did not attempt to record the statement of the injured. Therefore, there may be a possibility of implicating the applicant falsely in the crime. There are no antecedents to the discredit of the applicant. The charge sheet has been filed. Hence, he may be granted bail.

4. Learned APP would submit that the witnesses and the injured are consistent about the happening of the incident. The two co-accused have been granted bail since the injured did not allege against them. Therefore, no parity would be applied. The injured was hospitalized for more than three weeks. Serious injury was caused to the left side of the abdomen. The weapon has been recovered at the instance of the applicant. The applicant was on the spot with the weapon, which indicates his intention. The injured is the best witness. Considering the conduct of the applicant, it clearly reflects that he had the intention to kill the injured. Considering the gravity of the offence and the nature in which the offence was committed, the applicant does not deserve bail.

5. Perused the charge sheet. The incident happened near one temple. Specific allegations have been levelled against the applicant that he stabbed the knife into the left side of the stomach of the injured. The first informant and other eyewitnesses alleged that three persons assaulted the injured with knives. However, the injured did not involve two accused who have been granted bail, but

consistent as regards the assault by the applicant. Though the injured has exonerated or not involved the co-accused who have been granted bail, the facts remain that the eyewitnesses and the injured are consistent about the role attributed to the applicant. The medico legal certificate reveals that the injuries were serious. The applicant had no reason to carry the weapon in a public place. It was a long knife of around 8.5 inches, with a one-inch blade. The injured is the best eyewitness. Considering the injuries, *prima facie*, the intention of the applicant may be inferred that he intended to kill the injured. The offence is serious. The injured had undergone treatment for a long period.

6. Considering the above facts and the evidence against the applicant, the Court is not inclined to grant bail to the applicant. Hence, the application stands dismissed.

(S.G. MEHARE, J.)