

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

31 BAIL APPLICATION NO.1232 OF 2023

ASHWAGHOSH @ SHIVRAJ @ PATLYA BHARAT JOGDAND
VERSUS
THE STATE OF MAHARASHTRA

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Advocate for Applicants : Mr. S.S. Jadhav
APP for Respondent : Mr. K.S. Patil

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CORAM : S. G. CHAPALGAONKAR, J.
Dated: August 28, 2023

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PER COURT :-

1. The applicant is seeking regular bail in connection with Crime No.462 of 2021 registered with Vivekanand Chowk Police Station, Latur for the offence punishable under sections 307, 143, 147, 148, 149, 323, 504, 506 of the IPC as well as under sections 4 and 25 of the Arms Act.

2. The investigation was set in motion on the information given by one Sarlabai Kambale to the concerned police station. It is alleged that on 15.7.2021 while some marriage function was going on, the accused persons arrived at the spot and the applicant/accused using knife inflicted stab injury on the person of the son of the informant. Specific allegation is made against the applicant Ashwaghosh @ Shivraj that he took knife from the hand of Pami Jogdand and inflicted blows on back, right shoulder of her son. Allegations are made that other accused persons i.e. Shobhraj, Sonu and Bharat were also holding knife in their hand and they had also inflicted the

blows on the person of her son. During the course of the investigation, the applicant has been arrested on 16.7.2021. Since then, he is behind bar. Other accused persons were also arrested on same day. Accused no.2 Ashitosh @ Shobhraj Bharat Jogdand has been recently granted bail by the Sessions Court by order passed below exhibit 73 in SC No.22 of 2022. The learned Sessions Court observed in paragraph no.9 of the order as under :-

“9. In the present case in hand, all the accused are charged for the main offence under section 307 r/w section 149 of IPC. Admittedly, now the victim is survived and even got married recently and thus the offence is not likely to escalate to higher counts. The applicant is admittedly in jail since the date of his arrest on 16.7.2021 i.e. more than 15-16 months upto now. Even otherwise, there is no progress in the said case and also there is no possibility of concluding the trial in recent future. Since earlier bail application was rejected on possibility to escalate the offence to higher counts but as referred above the victim is survived and enjoying the routine life and as the applicant is in jail since more than 16 months and thus I hold that relying upon the citation relied upon by the learned advocate for the applicant as referred above and in the above changing circumstances, the present application deserves to be allowed by imposing certain conditions and hence order.”

3. Mr. Jadhav, learned advocate appearing for the applicant would submit that although there are allegations against the applicant, role played by him is more or less same as has been attributed against the accused Ashutosh @ Shobhraj, who has been released on bail by order of the Sessions Court. He submits that, invoking principles of parity, the applicant needs to be given the same treatment. Relying upon the observations

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as indicated above, he would submit that the applicant is behind bar for more than two years. The trial would take its own time and there is no progress as such. He would further submit that victim is recovered. He has been recently married and living his normal life. He, therefore, urges for release of the applicant on bail.

4. Mr. Patil, learned A.P.P. vehemently opposes the prayers. He would submit that the role played by the applicant is different than the accused Ashwaghosh @ Shivraj. By inviting attention of this court to the injury certificate, he would submit that the injuries that can be attributed to blows given by the applicant are grievous in nature. Fortunately, victim is survived. Therefore, according to him, there is no reason to invoke the principles of parity to the benefit of the applicant.

5. Having considered the submissions advanced, apparently, the applicant has been arrested on 16.7.2021. Charge-sheet is filed long back, however, there is no progress in the trial. The learned Sessions Judge in his order dated 19.11.2022 has observed that there is no progress in the case and there is no possibility of concluding the trial in recent future. It is also observed that Victim is survived and living his normal life. The role attributed to the accused no.2 Ashutosh @ Shobhraj is more or less similar to that off the role attributed against the applicant although injuries attributed to assault by applicant are grievous in nature. However, for the aforesaid reasons, further detention of the applicant would not be necessary. The applicant can be released on bail by imposing

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certain conditions that will ensure smooth and flawless trial. In that view of the matter, case is made out to release the applicant on bail. Hence, the order.

ORDER

- I. Criminal Bail Application is hereby allowed.
- II. The applicant ASHWAGHOSH @ SHIVRAJ @ PATLYA BHARAT JOGDAND shall be released on bail in connection with Crime No.462 of 2021 registered with Vivekanand Chowk Police Station, Latur for the offence punishable under sections 307, 143, 147, 148, 149, 323, 504, 506 of the IPC as well as under sections 4 and 25 of the Arms Act on furnishing P.B. of Rs.50,000/-(Rs.Fifty Thousand) with one S.B. of the like amount on the following conditions :-
 - a] The applicant shall not enter the Latur City (Municipal Corporation Area) except for attending the trial or Court proceeding against him.
 - b] The applicant shall not leave Maharashtra State without prior permission of the Sessions Court.
 - c] The applicant shall not tamper with the prosecution evidence or shall not make any attempt to contact any witness named in the charge-sheet.
 - d] The applicant shall attend the trial on each and every date without fail and the applicant

shall cooperate for expeditious disposal of the trial.

III. Bail application is accordingly disposed off.

(S.G. CHAPALGAONKAR J.)

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