

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO.1248 OF 2023
WITH APPLN/2742/2023 IN BA/1248/2023

SOHEL KHAN NAVID KHAN
VERSUS
THE STATE OF MAHARASHTRA

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Advocate for Applicant : Mr. Satej S. Jadhav holding for
Mr. Granthi Manpreet Ajeet Singh
APP for Respondent/State : Ms. V. N. Patil Jadhav
Advocate for first informant : Mr. Gajanan G. Kadam
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CORAM : S. G. MEHARE, J.

DATE : 07-08-2023

PER COURT :-

1. Heard the learned counsel for the applicant, the learned A.P.P. for the respondent/State and the learned counsel for the first informant.
2. The applicant seeks bail in C.R.No.399 of 2022 registered with Vimantal Police Station, District Nande, for the offences punishable under Sections 302, 323, 143, 146, 147, 148 and 149 of the Indian Penal Code and Sections 4/25 of the Arms Act and Section 135 of the Maharashtra Police Act.
3. The applicant is praying for bail on the ground that false allegations have been levelled against the applicant that the

applicant assaulted the deceased with iron rod. The postmortem report falsifies such allegations. On the contrary, the applicant was also assaulted in the said incident and suffered bleeding injuries. Though, the weapon allegedly used to assault the deceased by the applicant has been recovered, it was not blood stained. It was only two feet long iron rod. The applicant never participated in the said incident. He did not assault anybody. However, he was the victim of the situation. The eyewitnesses are false and concocted. Therefore, he may be granted bail.

4. The learned counsel for the victim has vehemently argued that he witnessed the incident and specifically alleged against the applicant that he alongwith others assaulted the deceased with iron rod. The other eyewitnesses are consistent with the allegations levelled against the applicant. It was an incident happened at the time of reception of the marriage. There is *prima facie* evidence against the applicant. The offence is serious. Hence, he may not be granted bail.

5. The learned A.P.P. supported the contention of the learned counsel for the victim. In addition thereto, she would argue that the presence of the applicant on the spot of the incident has not been denied. There were eyewitnesses to the incident. Every time, visible injury is not possible due to the assault with blunt weapon like iron rod. *Prima facie* evidence is against the applicant

that he actively participated in the incident. Hence, he may not be granted bail.

6. The postmortem report does not reflect the injuries likely to be caused by the iron rod. It was a reception at the house of the first informant. The prosecution has a case that after the first assault, the deceased was taken into one lane which was at another place from the place of reception. Hence, at this juncture, it is difficult to identify the role attributed to the applicant. The iron rod recovered from him was also not blood stained. There is no quarrel that the applicant suffered injury in the said incident as the persons from the side of the deceased came there and assaulted some of the accused. It may also be the circumstance in favour of the applicant.

7. Considering the facts in toto, it is doubtful at this juncture, that the applicant had assaulted the deceased with iron rod. There are no antecedents to the discredit of the applicant. Hence, the Court is of the view that the circumstances allow the Court to grant him bail. Hence, the order :-

- i) The application is allowed.
- ii) Applicant Sohail Khan Navid Khan be released on bail, on furnishing PB and SB of Rs.50,000/-, with one solvent surety of the like amount, in C.R.No.399 of 2022 registered with Vimantol Police Station, District Nanded, for the offences

punishable under Sections 302, 323, 143, 146, 147, 148 and 149 of the Indian Penal Code and Sections 4/25 of the Arms Act and Section 135 of the Maharashtra Police Act, on the conditions that,

- (a) He shall not tamper with the prosecution witnesses
 - (b) He shall attend the trial on each effective date.
- iii) Criminal Application No.2742 of 2023 stands allowed.

(S. G. MEHARE)
JUDGE

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