

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD
BAIL APPLICATION NO.1310 OF 2023**

1. Narendra @ Bhadra Pandit Sonawane,
Age: 31 years, Occu.: Labour,
R/o. Hausa Nagar, Behind Society, Asoda,
Tq. and Dist. Jalgaon.
2. Vijaysing Phulsing Pardhi,
Age: 44 years, Occu. Labour,
R/o. Behind Balaji Mandir, Koli Peth,
Zopadapatti, Jalgaon,
Tq. and Dist. Jalgaon. ..Applicant

Versus

The State of Maharashtra
Though, City Police Station,
Tq. and Dist. Jalgaon ..Respondents

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Mr. A. K. Bhosle, Advocate for the Applicants.
Mrs. P. V. Diggikar, APP for Respondent-State.

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**CORAM : S. G. CHAPALGAONKAR, J.
DATE : 25th AUGUST, 2023.**

ORDER:-

1. By this application, the applicants seek regular bail in Crime No.380 of 2022 registered with Jalgaon (City) Police Station for the offences punishable under Sections 302, 307 r/w 34 of the Indian Penal Code.

2. On the information given by Sagar Sapkale, Crime No.380/2022 registered with City Police Station, Jalgaon on 21.12.2022. The applicants are arrested in pursuance of the registration of the afore-said crime. It is alleged that the accused no.1-Gopal Saundane stabbed Akash Sapkale and applicants/accused obstructed informant and others. Thereafter, accused Gopal stabbed the infor on back and palm. Due to

such injuries, Akash Sapkale died. On the basis of the information received, accused persons were arrested. The investigation was completed and charge-sheet is filed. The accused nos.2 and 3 are behind the bar for more than 9 months.

3. Mr. Bhosle, learned Advocate appearing for the applicants would submit that the applicants are not alleged to have inflicted any injury to the person of the deceased. The allegations against the applicants are that they have obstructed others from intervening when the accused Gopal stabbed Akash Sapkale. He would submit that the allegations in the FIR show that the applicants were not carrying any weapon nor they have participated in actual assault. He would submit that there are no criminal antecedents against the applicants. They are behind the bar for more than 9 months. The investigation is over. The charge-sheet is filed. The trial will take its own time. Further detention of the applicants would not enure to the benefit of the prosecution. The applicants would be abiding by the conditions as imposed by this Court.

4. Per contra, learned APP strongly opposes the application. He would submit that it is an incident of brutal murder, the applicants were with main accused, although they have not assaulted to deceased Akash they have facilitated the commission of the offence. Their participation in the commission of the offence is writ large. In case of their release, possibility of tampering of the evidence cannot be ruled out.

5. Having considered the submission advanced, apparently the applicants are named in the FIR. The allegation of main assault using knife is against accused no.1 Gopal @ Anna Saundane, who stabbed Akash, so also the informant Sagar. The statement of Vishal Sapkale, who is an eye witness of the incident shows that the applicants had

caught hold Sagar and Gopal has inflicted knife injury to deceased Akash as well injured Sagar. The statement of other witnesses is consistent about the role of applicants. However, apparently accused no.1 is main assailant and responsible for murder of Akash Sapkale. The applicants were not holding any weapon in their hand nor they attributed role in causing injuries to the Sagar. Mr. Bhosle, learned Advocate appearing for the applicants has invited attention of this Court to few other statements of independent eye witnesses to urge that the role attributed to the applicants in FIR does not found place in those statements. He would further submit that the police statement in which role of the applicants is shown are recorded after five days.

6. Pertinently, the investigation in the offence is over. The role of the applicants does not appear to be in main incident of murder. Whether role attributed against them would attract Section 34 of the Indian Penal Code would be the subject matter of trial. The applicants are behind the bar for more than 9 months and there are no criminal antecedents. In that view of the matter, the case is made out to release the applicants on bail subject to certain conditions. Hence, the following order:

ORDER

- (i) Bail Application is allowed.
- (ii) The applicant no.1 Narendra @ Bhadra Pandit Sonawane and applicant no.2 Vijaysing Phulsing Pardhi be released on bail in Crime No.380 of 2022 registered with Jalgaon (City) Police Station for the offences punishable under Sections 302, 307 r/w 34 of the Indian Penal Code on executing P.B. and S.B. of Rs.25,000/- (Rs.Twenty Five Thousand only) each on following condition:

- a. The applicants/accused shall not tamper with the prosecution evidence and shall not pressurize the prosecution witness in any manner.
- b. The applicants/accused shall not leave Jalgaon district without prior permission of this Court till conclusion of trial.
- c. He shall not commit similar other offence in future and shall maintain law and order forever. He shall not leave State of Maharashtra without prior permission of this Court till conclusion of the trial.
- d. The applicants/accused shall attend the proceedings before the Sessions Court.

(iii) Application is disposed of.

(S. G. CHAPALGAONKAR)
JUDGE

Devendra/August-2023