

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

931 BAIL APPLICATION NO.1448 OF 2023

LALKARSINGH POONAMSINGH JUNNI
VERSUS
THE STATE OF MAHARASHTRA

...

Advocate for Applicant : Mr. Ravindra Vitthal Gore
APP for Respondents: Ms. P.V. Diggikar.
Advocate for Respondents : Mr. Pratap B. Vikhe Patil.

CORAM : S.G. CHAPALGAONKAR, J.

DATE : 7th SEPTEMBER, 2023

ORDER :-

The applicant seeks bail in connection with Crime No. 342 of 2022, registered with police station Manwat, District Parbhani, for the offence punishable under sections 302, 326, 143, 144, 148, 149, 506 and under Sections 4 and 25 of the Arms Act.

2. The investigation was set in motion on the basis of the information given by one Tejadsingh Joharsingh Bavri, stating that on 7.11.2022, around 8.30 p.m. while he was at “ Hotel ‘Aai’ ” and having a tea with Balrajsingh, Pavansingh and Deepsingh, his companion Balramsingh received a phone call from his father that the accused persons are searching for him. After some time, the accused persons arrived at the spot. They were holding deadly weapons like sword, sticks etc., accused Surjitsingh and Arjunsingh assaulted Balramsingh with sword. When Balramsingh tried to run away from the spot, both the

accused persons chased him and again assaulted him. Injured Balramsingh succumbed to the injuries lost his life. Name of all the persons who were accompanied with the assailants are incorporated in the FIR which includes the name of the applicant. Omnibus statement is made in the FIR that all the accused were holding weapons in their hand. The applicant has been arrested in pursuance of the aforesaid offence on 8.11.2022. Since then, he is behind bars. The investigation progressed. During the course of investigation, the weapon of offence i.e. sword is recovered from the main assailant named above. There is no discovery at the instance of the applicant. On completion of investigation, charge sheet is filed. Trial is yet to commence.

3. Mr. Ravindra Gore, learned advocate for the applicant would submit that no specific role has been attributed against the applicant. He has been falsely roped in the offence. He would submit that going by the contents of the FIR, presence of the applicant is shown without attributing specific role in the crime. Further, by inviting attention of this court to the statements of some of the eye witnesses, he would submit that, either name of the applicant is absent or no specific role is attributed against him. As such, he urges to release the applicant on bail.

4. Ms. Diggikar, learned APP, however, opposes the application. She would submit that it is a case of brutal murder. The accused persons were holding deadly weapons and brutally assaulted the deceased. She would point out that Section 149 of the IPC is invoked in present case. According to her, the persons who have participated in unlawful assembly are equally responsible for death of the deceased. She also invited attention of this court to the fact that in the year 2021, an offence

punishable under Section 307 of IPC is registered against the applicant. As such, there are criminal antecedents. Hence, urges that he may not be released on bail.

5. The learned advocate for the complainant would also oppose the prayer for grant of bail stating that in case of release of applicant, there is a possibility of tampering with the evidence.

6. Having considered the submissions advanced, it is apparently clear that FIR stipulates allegation regarding assault to victim by accused Surjitsingh and Arjunsingh using sword. The present applicant is shown present alongwith other accused person, but no specific role is attributed against him. Looking to the statement of eye witnesses, it can be gathered that some of the eye witnesses have not even named the applicant or whispered about his presence at the spot. Apparently, no role is attributed against the applicant in the assault over the deceased. Mr. Gore has rightly pointed out that the other accused persons are released on bail by order of this court. The role attributed against those accused is similar to that of the present applicant. Therefore, he submits that on the ground of parity also, the applicant is entitled for bail. The charge sheet is filed. Investigation is over. The applicant is behind bars for more than 10 months. In that view of the matter, no fruitful purpose would be served by further detention of the applicant. It is made clear that observations made hereinabove are prima facie in nature and made only for the purpose of disposal of the application. Hence, a case is made out for grant of bail subject to certain conditions :-

ORDER

- (i) The Bail application is allowed.
- (ii) Applicant – Lalkarsingh S/o. Poonamsingh Junni, be released on bail on furnishing PB. and S.B. of Rs. 50,000/- with one solvent surety of the like amount, in connection with Crime No. 342 of 2022 registered with Police Station Manwat, Dist. Parbhani, on the following conditions :-
 - (a) He shall not tamper with the prosecution witnesses.
 - (c) He shall attend the trial on each and every effective date.
 - (d) He shall not enter Manwat Town till disposal of the Sessions Trial in the present case, except for attending police station as described hereunder.
 - (e) He shall visit Manwat Police Station, Dist. Parbhani, once on 17th of every Month between 10.00 a.m. and 2.00 p.m. till conclusion of trial.
 - (d) He shall update about his address and contact number with the concerned police station.
- (iii) Application stands disposed of accordingly.

[S.G. CHAPALGAONKAR]
JUDGE

grt/-