

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

930 BAIL APPLICATION NO.1447 OF 2023

SULTAN THOFIK KAZI
VERSUS
THE STATE OF MAHARASHTRA

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Advocate for Applicant : Mr. K.D. Mundhe
APP for Respondent : Mr. S.P. Deshmukh

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CORAM : S. G. CHAPALGAONKAR, J.
Dated: September 07, 2023

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PER COURT :-

1. The applicant seeks regular bail in connection with Crime No.169 of 2023 registered with Dhoki police station, Tq. and District Osmanabad for the offences punishable under sections 143, 147, 148, 307, 323, 324, 149, 504, 506 of the Indian Penal Code and u/s 4/25 of the Arms Act.

2. Investigation was set in motion on the basis of the information given by one Amar Shinde. In nutshell, it is alleged that while the informant alongwith other friends had been to Langade Galli, near the house of one Chadu Kazi, the accused persons arrived at the spot holding weapons in their hand and started beating informant and others. It is alleged in the FIR that the applicant Sultan Kazi was holding sword in his hand, however, there is no further stipulation in the FIR regarding any assault made by him to informant. Allegation is made that accused Baba Kazi hit on the head of the informant using the iron rod. The statement of the informant is further

recorded under section 164 of the Criminal Procedure Code. In that statement also allegations regarding assault are made only against accused Baba Kazi by using iron rod. It appears that after four days of incident the statement of eye witnesses are recorded in which they states that the applicant was holding sword in his hand and gave blow on the head of the informant by which he suffered injuries.

3. After completion of the investigation, charge-sheet is filed. Except applicant, there are in all 12 accused persons. Except applicant all are enlarged on bail. The applicant has filed an application for grant of bail before the Sessions Court. However, the same is rejected. Hence, this application.

4. Mr. Mundhe, learned advocate appearing for the applicant would submit that, apparently, there is inconsistency in the statement of first informant and statements of so called alleged eye witnesses. He would submit that initially allegations regarding assault to informant was made only against accused Baba, who was holding rod in his hand. No allegations regarding assault was made against applicant. He would submit that, subsequently, story has been developed through statements of other witnesses which are recorded after four days. He urged to release the applicant on bail.

5. Learned A.P.P. strongly opposes the prayer for grant of bail. He would submit that injury certificate shows that two injuries are suffered by the informant. One of them is CLW by sharp object. That itself supports the version of the

prosecution that the applicant, who was holding sword in his hand, is author of that injury. Hence it is urged that the applicant may not be released on bail.

6. Having considered the submissions advanced, apparently, except the applicant, other accused persons are already enlarged on bail. The applicant has been arrested on 19.5.2023 and since then he is behind bar. As rightly pointed out by the learned advocate appearing for the applicant, there is material inconsistency in the version as given in the FIR and statements of the eye witnesses. Injury certificate shows that informant suffered simple injuries. Investigation is completed. Charge-sheet is filed. Further detention of the applicant would not be necessary particularly when it is pointed out that there are no antecedents. In that view of the matter, case is made out for grant of bail. Hence, the order.

ORDER

- I. Criminal Bail Application is hereby allowed.
- II. The applicant - SULTAN THOFIK KAZI be released on bail in connection with Crime No.169 of 2023 registered with Dhoki police station, Tq. and District Osmanabad for the offences punishable under sections 307, 324, 323,143, 147, 148, 149, 504, 506 of the Indian Penal Code and u/s 4/25 of the Arms Act on furnishing P.B. & S.B. of Rs.50,000/- (Rs. Fifty Thousand) with one surety of the like amount, on the following conditions :-

- a] The applicant shall not tamper with the prosecution evidence in any manner.
 - b] The applicant shall not contact with any witness named in the charge-sheet.
 - c] The applicant shall attend the each and every effective date of the trial without fail.
- III. Bail application is accordingly disposed off.

(S.G. CHAPALGAONKAR J.)

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