

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

52 BAIL APPLICATION NO.1466 OF 2023

SAMEER PASHA PATHAN
VERSUS
THE STATE OF MAHARASHTRA

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Advocate for Applicant : Mr. I.D. Maniyar
APP for Respondent: Mr. S.P. Deshmukh

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

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PER COURT :-

1. The applicant seeks regular bail in Sessions Case No.60 of 2023 arising out of Crime No.43 of 2023 registered with Ambajogai police station, Ambajogai, District Beed for the offences punishable under sections 302, 323, 143, 148, 149, 341, 504, 506 of the Indian Penal Code.

2. The informant Anwar Ali lodged the report dated 10.2.2023 alleging that on 9.2.2023 while he was alongwith his brother Nayyum and friend Shakil at Barabhai Galli, Ambajogai, the accused Manjur Ali, Haidar Ali, Hameed Pathan and 3 to 4 unknown persons were hidden and they suddenly attacked his brother Nayyum. It is specifically alleged that accused Manjur Ali had cookery in his hand and Haider Ali had sickle. Both accused assaulted Nayyum using weapons in their hand. It is further alleged that unknown persons assaulted Nayyum by means of kick and fist blows. Due to such attack,

Nayyum suffered fatal injuries. Accordingly, offence was registered against in all 7 accused persons.

3. Learned advocate appearing for the applicant would submit that the applicant is not named in the FIR. He has been subsequently arrayed as accused on the basis of alleged information received by the police. He would submit that no role is attributed against the applicant. He would further points out that other two accused persons, who were not named in the FIR are already released on bail vide order dated 8.8.2023 passed in Bail Application No.1299 of 2023. He would submit that the applicant needs to be given similar treatment and urged for grant of bail.

4. Per contra, Mr. Deshmukh, learned A.P.P. appearing for the respondent-State strongly opposes the application. He would submit that the role of the applicant is distinguishable from the role of the other accused, who are already enlarged on bail. He would submit that identification parade was conducted on 23.5.2023 wherein the applicant is identified by the eye witnesses. He would, therefore, submit that there is ample material against the applicant. Hence, urged to reject the application.

5. Having considered the submissions advanced, apparently, the contents of the FIR specifically alleges role against the named accused. They were holding deadly weapons in their hand and brutally attacked the deceased Nayyum. So far as accused persons who are not named in the

FIR, no specific role is attributed. Other two accused persons against whom no identification parade is conducted are already enlarged on bail. In that view of the matter, in absence of specific role attributed against the applicant, merely assuming that he was present, no better case can be made out against him regarding participation in the assault against the deceased. Investigation is over. Charge-sheet is filed. The applicant is in jail since 19.2.2023. There are no criminal antecedents. No purpose will be served by continuation of the detention of the applicant. Hence, the case is made out for grant of bail. In the result, following order is passed.

O R D E R

- I. Criminal Bail Application is hereby allowed.
- II. The applicant - Sameer Pasha Pathan be released on bail in Sessions Case No.60 of 2023 arising out of Crime No.43 of 2023 registered with Ambajogai police station, Ambajogai, District Beed for the offences punishable under sections 302, 323, 143, 148, 149, 341, 504, 506 of the Indian Penal Code on furnishing PR. Bond in the sum of Rs.50,000/- (Rs. Fifty Thousand) with one S.B. 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 attend each and every date of the trial.

- c] The applicant shall not leave the State of Maharashtra without permission of the Court.

III. Bail application is accordingly disposed off.

(S.G. CHAPALGAONKAR J.)

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