

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

934 BAIL APPLICATION NO.1474 OF 2023

**AAKASH @ CHAKRYA @ GOVINDA KISHORE JAIN
VERSUS
THE STATE OF MAHARASHTRA**

...

Advocate for Applicant : Mr. Nasimoddin Rafiyoddin Shaikh
APP for Respondents: Mr. K.S. Patil.

CORAM : S.G. CHAPALGAONKAR, J.

DATE : 7th SEPTEMBER, 2023

ORDER :-

The applicant seeks bail in connection with Crime No. 24 of 2023 registered with police station Faizpur, Taluka Yawal, Dist. Jalgaon for the offence punishable under sections 143, 147, 148, 149, 307, 302, 341, 323, 337, 504, 506 of IPC.

2. The investigation was set in motion on the basis of the information given by one Mukesh Tayade. He alleges that on 21.2.2023, while he was in the company of deceased Shubham and proceeding on a bike, the accused persons obstructed them and suddenly started pelting stone towards them. However, they proceeded further. Again, they were assaulted by accused persons near a tea stall at Aklud Toll Naka. It is alleged that accused Avinash Gupta, stabbed deceased Shubham on his chest. Accused Bhola stabbed Shubham on his stomach. Thereafter,

accused Sagar Piwal took the knife from hand of Avinash and inflicted blow on the back of Shuhham. It is alleged that applicant accused i.e. Chakrya inflicted injury on the thigh of Shubham using knife. Based on said information, Crime No. 24 of 2023 came to be registered with police station Faijpur. The applicant came to be arrested on 22.2.2023. Investigation progressed. Finally charge sheet came to be filed.

3. Mr. N.R. Shaikh, learned advocate appearing for the applicant would submit that the applicant has been falsely implicated. He submits that the genesis of the prosecution of the prosecution story itself is shaky. Although informant Mukesh has initially alleged that accused Sagar has inflicted blow using knife on the back of the deceased, in his supplementary statement, he withdrew from such allegation against Sagar Tiwari. Mr. Shaikh further invited attention of this Court to the statement of independent eye witness, where there is inconsistency as regards the role attributed against the applicant. Mr. Shaikh also invited attention of this court to the post-mortem report to contend that corresponding injury attributable to the applicant is absent. As such, medical evidence is also inconsistent with the prosecution story.

4. Learned APP, however, strongly opposes the application. He would submit that a specific role has been attributed against the applicant in the FIR so also, there is discovery under section 27 of the Evidence Act.

5. Having considered the submissions advanced, apparently, the FIR refers to the nick name of the applicant i.e. Chakrya, There is allegation that he inflicted blow on the thigh of Shubham. As rightly

pointed out by Mr. N.R. Shaikh, learned advocate for the applicant, the informant has changed his version regarding manner of the incident and the description given in the FIR. He has withdrawn allegations made against Sagar, who is also alleged to have inflicted injury on the back the deceased. So far as discovery under section 27 is concerned, it would be of no significance. The independent eye witnesses are silent about the role played by the applicant. Description of injuries Column No.17 of the Post- Mortem report do not show any injury on the thigh of the deceased. Therefore, the submission of the learned advocate for the applicant that there is inconsistency in the medical and ocular evidence, prima facie, appears to be correct.

5. Pertinently, statement of the informant under section 164 of Cr.P.C. has been recorded, however, he refers to the stab injuries caused by accused Avinash Gupta and Bhola Gupta. He do not refer to the use of weapon by applicant or causing any injury to the deceased. As such, three inconsistent versions regarding same incident are surfacing on record. There are criminal antecedents in relation to applicant. However, further detention of the applicant would not be necessary particularly when he is behind bars for more than six months. In that view of the matter, no fruitful purpose would be served by further detention of the applicant. However, release of the applicant would be subject to certain conditions. 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, the following order :-

ORDER

- (i) The application is allowed.
- (ii) Applicant – Aakash @ Chakrya @ Govinda Kishore Jain, be released on bail on furnishing P.B. and S.B. of Rs. 50,000/- (rupees fifty thousand) with one solvent surety of the like amount, in connection with Crime No. 24 of 2013 registered with Faizpur Police Station, Tal. Yawal, Dist. Jalgaon, for the offences punishable under Sections 143, 147, 148, 149, 307, 302, 341, 323, 337, 504 and 506 of IPC, on the following conditions :-
 - (a) He shall not make attempt to contact any witness in the charge sheet and shall not tamper with the prosecution evidence.
 - (c) He shall attend the trial on each and every effective date.
- (iii) Application stands disposed of accordingly.

[S.G. CHAPALGAONKAR]
JUDGE

grt/-