

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

**BAIL APPLICATION NO.1491 OF 2023
WITH
CRIMINAL APPLICATION NO.3198 OF 2023**

1. Sudam s/o Digambar Ghodke
Age: 223 years, Occu: Labour
R/o Nilpani Post Malegaon
Bhalegaon, Chikalthana
Tq. & Dist. Aurangabad

... Applicant

Versus

1. The State of Maharashtra
Through Investigation Officer,
Chikalthana Police Station
Aurangabad, Dist. Aurangabad

... Respondent

...

Mr. D. R. Gavhad, Advocate for the Applicant
Mr. S. P. Deshmukh, APP for Respondent/State
Mr. V. U. Pawar, Advocate for the Informant

...

CORAM : S. G. CHAPALGAONKAR, J.

DATE : 06.09.2023

PER COURT :

1. Heard the learned Advocate appearing for the applicant, learned APP for the respondent/State and learned Advocate for the informant.
2. The applicant is seeking regular bail in connection with Crime No.269/2023 registered with Chikalthana Police Station, District Aurangabad for the offences punishable under Sections 302,

307, 324, 323, 143, 147, 148, 149, 504 and 427 of the Indian Penal Code [for short 'IPC'].

3. The investigation was set in motion on the basis of information given by one Ratnakar Keshavrao Hiwale. It is alleged that while the informant along with other persons was proceeding in a scorpio jeep, some persons arrived in a car. They halted the jeep and one of the occupant of the car broke the glass of the jeep. Thereafter, there was quarrel between the occupants of the car and jeep. The occupants of car, particularly, accused – Rameshwar inflicted a blow of knife on the person of injured – Sagar Gayake and Ramchandra Hiwale. Similarly, accused – Manoj, Mukund and Vikas beaten the victim – Santosh Hiwale and Bhaskar Uddange using an iron rod. It is further alleged that, unknown person, who was accompanied with accused persons beaten the victim by fists and kick blows. The applicant has been arrested in pursuance of the aforesaid crime on 11/07/2023.
4. Mr. Gavhad, learned Advocate appearing for the applicant would submit that the applicant is not named in the FIR. Even going by the contents of the FIR, the allegations are made against an unknown culprit, but there is nothing to indicate that the applicant is the same person and participated in the aforesaid crime. He would submit that the applicant is falsely implicated only because he is brother of one of the accused.
5. Learned APP and the learned Advocate appearing for the informant opposes the application. They would submit that

Section 149 of IPC has been invoked. All the assailants are equally responsible for the criminal act. Hence, he urge to dismiss the bail application.

6. Having considered the submissions advanced, it is apparent that, the applicant is not named in the FIR. He is arrested on 11/07/2023. However, no identification parade is conducted, by which, the applicant can be linked with the incident in question. Even it is assumed that, the unknown person referred in the FIR was the applicant, the role attributed is not regarding participation in the main assault. There is no allegations that he used any weapon in the assault. The specific overact attributed against the named accused persons. The applicant is not attributed with the assault on the injured persons who suffered serious injuries. In that view of the matter, the case is made out for grant of bail subject to certain conditions. Hence, the following order:

ORDER

- (i) Bail Application is allowed.
- (ii) The applicant, namely, Sudam s/o Digambar Ghodke be released on bail in connection with Crime No.269/2023 registered with Chikalthana Police Station, District Aurangabad for the offences punishable under Sections 302, 307, 324, 323, 143, 147, 148, 149, 504 and 427 of the Indian Panel Code on furnishing P.B. and S.B. of Rs.50,000/-(Rs. Fifty Thousand Only) on the following conditions:

- a) The applicant shall not tamper with the prosecution evidence in any manner.

b) The applicant shall attend the police station once in a week between 10:00 am to 2:00 pm on every Friday.

c) The applicant shall not leave State of Maharashtra without permission the Sessions Court.

(iii) Bail Application is disposed of accordingly.

[S. G. CHAPALGAONKAR]
JUDGE

Sameer