

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

950 BAIL APPLICATION NO.1558 OF 2023

SWAPNIL BHAGWAN MULE
VERSUS
THE STATE OF MAHARASHTRA

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Advocate for Applicant : Mr. P. P. More
APP for Respondents: Mr. K.S. Patil.

CORAM : S.G. CHAPALGAONKAR, J.

DATE : 21st SEPTEMBER, 2023

ORDER :-

1. By this application, the applicant seeks regular bail in connection with Crime No. 90 of 2023 registered with Jafrabad Police Station, Dist. Jalna for the offences punishable under Sections 302, 504 r/w. 34 of IPC.

2. The investigation was set in motion on the basis of the information given by Suresh Ramrao Shelke, who alleges that the accused Shankar Pawar was stalking his nephew and niece. Therefore, he had intercepted accused Shankar and asked him to desist from such activity. However, accused Shankar took out a knife and inflicted a blow on Narayan/brother of informant. It is further alleged that the applicant Swapnil Mule had also assaulted him from back side using the stick. Narayan succumbed to those injuries. On the basis of the aforesaid

information, Crime No. 90 of 2023 came to be registered. The applicant is arrested in pursuance of the aforesaid crime. The investigation progressed. During the investigation, inquest panchama on the body of the deceased is drawn. Similarly, post-mortem report is collected. The applicant is behind bars since 28.4.2023. His prayer for grant of bail has been rejected by Court of Sessions.

3. Mr. More, learned advocate appearing for the applicant would submit that although there are allegations in the FIR that applicant had assaulted deceased - Narayan using the stick, said allegations are not supported by independent witness, namely, Pawan Shelke. He would further submit that medical evidence is inconsistent with the narration of assault on the head of the deceased. He would further submit that the investigation is complete. Charge sheet is filed. Further detention of the applicant is not necessary.

4. Learned APP vehemently opposes the prayer for grant of bail. He would invite attention of this court to the statements of the eye witnesses, who have confirmed the presence of the applicant on the spot. He would submit that the applicant was holding a stick in his hand and he gave a blow on the head of the deceased. As such, applicant has actively participated in assault against deceased. Hence, he urge to reject the application.

5. Considering the submissions advanced, apparently, there is allegations in the FIR that applicant arrived on the spot on the call given by accused No.1 Shankar. Thereafter, accused No.1 inflicted injury on deceased using knife and further allegation is made that applicant, who

was holding a stick in his hand, assaulted the deceased on his head. To examine the veracity of the aforesaid allegation, when the inquest panchanama is perused, there is no corresponding external injury on body of deceased indicating assault on head of the deceased. Even the post mortem report, particularly, column No.19 shows that there is no injury on the skull. The column regarding external injuries in post-mortem report does not depict the injuries corresponding to the allegations made against the applicant. In view of the inconsistency between the medical evidence and the ocular evidence, so also variation in ocular evidence regarding role of applicant, a case is made out for grant of bail, subject to certain conditions. Hence, the order :-

: O R D E R :

- (I) The application is allowed.
- (ii) Applicant – Swapnil Bhagwan Mule be released on bail on furnishing P.B. and S.B. of Rs. 50,000/- with one solvent surety of the like amount, in crime No. 90 of 2023 registered with police station, Jafrabad, Dist. Jalna, on the following conditions :-
 - (a) He shall not tamper with the prosecution witnesses.
 - (b) He shall not establish any contact the informant or his relatives in any mode or manner till conclusion of the trial.
 - (c) He shall not enter the village Kolegaon, Taluka Jafrabad, Soygaon, District Jalna. till conclusion of the trial.
 - (d) The application stands disposed of.

**[S.G. CHAPALGAONKAR]
JUDGE**