

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

BAIL APPLICATION NO.1568 OF 2023

SAISINGH @ LALA DEEPAKSINGH GAHERWAR
VERSUS
THE STATE OF MAHARASHTRA

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Mr. S. S. Gangakhedkar, Advocate for the Applicant.
Mr. K. S. Patil, APP for Respondents-State.

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**CORAM : S. G. CHAPALGAONKAR, J.
DATED : 20th OCTOBER, 2023.**

PER COURT:-

1. The applicant seeks regular bail in connection with Crime No.60/2023 registered with Nanded Rural Police Station, District Nanded for the offences punishable under Sections 307, 143, 147, 148, 149, 506, 427 of the Indian Penal Code and Sections 3, 4, 25, 27 of the Arms Act.

2. The investigation was set in motion on the basis of the information given by one Manpreetsingh Charansingh Tak dated 04.02.2023, who alleges that on 03.02.2023 at about 09.00 pm he had been to Sambhaji Chowk. Alongwith his friends, he consumed liquor at open space behind Vasantrao Naik College. After some time one Avinash Mirase alongwith two friends joined them. Thereafter, there was hot conversation between them. It is alleged that the applicant opened fire using his pistol and raised assault of dagger, however, the victim caught hold the dagger, thus received serious injuries on his palm and hands. Thereafter, other accused persons gave blows of sword on his legs. All the accused persons made assault on him with intention to kill. On the basis of such information, aforesaid crime has been registered.

The investigation progressed. The applicant has been arrested on 06.02.2023. Since then, he is behind the bar.

3. Mr. Gangakhedkar, learned Advocate appearing for the applicant submits that the applicant has been falsely implicated in the aforesaid crime. He invites attention of this Court to the memorandum of recovery under Section 27 of the Evidence Act and points out that although allegation is made regarding use of pistol, a air gun has been recovered. He would further point out that the medical certificate shows victim suffered simple injuries and none of which is on vital part. He would, therefore, submit that it is difficult to gather intention to kill. He would further submit that the applicant is behind the bar since 06.02.2023. Till this date charge is nor framed. The trial would take its own course. Further detention of the applicant may not be necessary. Hence, he urges to release the applicant on bail.

4. The learned APP would strongly opposes the prayer. He would point out that the FIR clearly ascribes the role against the applicant. He has not only opened fire, but used deadly weapon like dagger and inflicted injuries on person of informant. He would point out that one of the injury is grievous. As such, he opposes the plea for grant of bail.

5. Having considered submissions advanced, apparently there are allegations against the applicant. He has been arrested on 06.02.2023. For last more than 8 months he is behind the bar. Perusal of the medical certificate shows that the injuries suffered by the informant were simple in nature. The recovery under Section 27 of the Evidence Act shows that air gun was found and not pistol as alleged. So far as the recovery of the dagger and

knife is concerned, there were no blood stains or no other evidence connecting weapons with the offence is made part of the charge-sheet. Looking to the nature of the offence whether there was intention to kill or not would be the matter to be decided in trial. However, taking into account the aforesaid aspects of the matter, in absence of criminal antecedents to discredit applicant and the fact that the applicant is behind the bar for more than 8 months, so also charge is not yet framed, further detention of the applicant need not be continued. Hence, the following order:

ORDER

- (i) Bail Application is allowed.
- (ii) The applicant, Saising @ Lala Deepaksingh Gaherwar be released on bail in Crime No.60/2023 registered with Nanded Rural Police Station, District Nanded for the offences punishable under Sections 307, 143, 147, 148, 149, 506, 427 of the Indian Penal Code and Sections 3, 4, 25, 27 of the Arms Act on furnishing P.B. and S.B. of Rs.50,000/- (Rs.Fifty Thousand only) each on following condition:
 - a. The applicant shall not tamper with the prosecution evidence in any manner.
 - b. The applicant shall attend each and every effective date before the Sessions Court.
 - c. The applicant shall not enter in Nanded Taluka, except for attending the trial before the Sessions Court till conclusion of the trial.
- (iii) Application is disposed of.

(S. G. CHAPALGAONKAR)
JUDGE