

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

BAIL APPLICATION NO.1595 OF 2023

BALAJI RAGHUNATH SOLUNKE
VERSUS
THE STATE OF MAHARASHTRA

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Advocate for Applicant : Mr. N.B. Narwade
APP for Respondents: Mr. S.B. Narwade
Advocate Asstt to APP : Mr. PP. More

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CORAM : S. G. CHAPALGAONKAR, J.

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Reserved on : October 11, 2023
Pronounced on : October 18, 2023

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ORDER :-

1. The applicant seeks regular bail in connection with Crime No.312 of 2022 registered with Nilanga police station, Tq. Nilanga, District Latur for the offences punishable under sections 302, 307, 279, 337, 504, 506, 143, 147, 148 r/w 149 of the Indian Penal Code and u/s 135 of the Maharashtra Police Act, 1951.

2. Investigation was set in motion on the basis of the information given by Vikram Karan Solunke, which states that on 18.5.2021 an offence has been registered against the family members of the informant with allegations of murder of one Anil Salunke. The informant, his brother, father and other 8 accused persons have been released on bail in the aforesaid crime. It is alleged that the present accused Aakash and his family members had animus in their mind since release of the

informant and his family members on bail. They used to quarrel for one and other reason and threaten that they will kill the informant and his family members.

3. It is further alleged that on 30.11.2022 informant and others were proceeding on the motorcycle to attend hearing in the Sessions Case. Father of the informant Karan and brother Deepak were riding on motorcycle bearing registration no.MH-14-GJ 9139. They were followed by other motorcycle riders. It is further alleged that a Scorpio Jeep no.MH-25-R-0692 and Creta Car bearing registration No.MH-12/PN-5580 speedily overtook the motorcycle of the informant. The Scorpio Jeep gave dash to the motorcycle on which father and brother of the informant were riding. Accused Aakash Anil Salunke was driving the said Jeep. Due to forceful dash of the jeep, father and brother of the informant were thrown on road. Accused Aakash stopped vehicle and alighted alongwith accused Rahul Solunke, Shobha Solunke, Anant Mohite, Balaji Solunke, Parmeshwar Solunke. Accused Aakash and accused Rahul assaulted the father of the informant i.e. Karan by iron rod and sticks. Accused Shobha hit him by stone. Accused persons were also beating Deepak. Thereafter, other accused persons arrived in Creta Car and further attacked Karan and Deepak. When informant and his companion Rahul Solunke attempted to intervene, they were abused and threatened. Thereafter, accused persons dispersed. When other villagers gathered they took Karan and Deepak to the hospital. Karan i.e. father of the informant was declared as

dead, whereas his brother Deepak was admitted for treatment in hospital. The aforesaid information was culminated into FIR bearing Crime No.312 of 2022 registered against in all 9 accused persons for the aforesaid offences.

4. Investigation progressed. During the course of the investigation, postmortem notes are collected, inquest panchnama is drawn. Statement of the witnesses are recorded and incriminating articles are seized. After completing investigation, charge-sheet came to be filed.

5. The applicant moved his application for grant of bail below exhibit 37 in Sessions Case No.5 of 2023. However, his bail application came to be negated.

6. Mr. N.B. Narwade, learned advocate appearing for the applicant submit that the applicant is the witness in crime no.129 of 2021 which has been registered for the offence punishable u/s 302 of the IPC against the informant and his family members. Therefore, a false complaint is made in present crime i.e. Crime No.312 of 2022 and all family members of the applicant are sought to be roped in. Mr. Narwade submits that in fact, deceased Karan and his son Deepak suffered accidental injuries. Immediately on their admission in the hospital, history was recorded regarding road traffic accident, however, later on colour is given depicting assault at the hands of the applicant and his family members. Accordingly, false offence u/s 302, 307 has been registered. He would submit that looking to the injuries appearing in the

postmortem, it can be gathered that all injuries are possible because of the motor-vehicular accident. He would further submit that although statements of the witnesses are recorded during the course of the investigation, all such witnesses are interested. If the incident took place on a public road, many independent witnesses could have been available. But, none of such witness is cited in the charge-sheet. Narration in the FIR is inconsistent with the medical report. He would also point out that over-writing in the admission history recorded at the hospitals to create record to tune with allegations in the FIR. He would submit that role against the applicant is omnibus. It is alleged against applicant that he alighted from the Scorpio Jeep and assaulted victim by stick. In that view of the matter, he submit that the applicant be released on bail.

7. Mr. S.B. Narwade, learned APP appearing for the State and Mr. More, learned advocate appearing for the informant vehemently opposes the prayer for grant of bail. They submit that accused persons were knowing that the informant and his family members would be attending hearing before the Sessions Court and, therefore, they had left village on the motorcycle. Plan was hatched to hit motorcycle by the Jeep. However, when deceased Karan and Deepak survived after dash, the accused persons alighted from the vehicle and attacked them with deadly weapon. The injured Karan lost his life immediately after incident, whereas Deepak suffered severe injuries. They submit that medical evidence depicts that deceased had suffered 19 injuries. The stick used in

commission of the offence is discovered at the instance of the applicant/accused. He is named in the FIR as well as in statement of eye witnesses specifying his role in commission of offence. The vehicles are seized. R.T.O. inspection report shows marks of the accident on Bonnet and Bumber of the jeep. Motorcycle is also damaged. They submit that bail application filed by accused Ajit Balaji Solunke has been rejected by this Court vide order dated 7.8.2023 after considering the nature of offence so also material in charge-sheet. As such, they urged to reject the application.

8. Having considered the submissions advanced and perusal of documents tendered, apparently, the applicant is specifically named in the FIR. He was one of the occupant of the Scorpio-Jeep bearing registration No.MH-25/R-0692, which gave dash to the motorcycle on which deceased Karan and his son Deepak were riding while going towards Nilanga. It is alleged that after giving dash to the motorcycle when motorcycle riders were thrown on the road, the accused persons including the applicant alighted from the jeep. Specific allegation is made that the applicant was holding a stick in his hand and he assaulted Karan and Deepak using the stick. Karan succumbed to the injuries caused by the assailant. The aforesaid narration is also supported by statement of eye witness namely Rahul Siddheshwar Salunke, who was accompanied with the informant. After arrest of the applicant, a stick has been recovered from the applicant through a memorandum panchnama under section 27 of the Evidence

Act. Perusal of the material in the charge-sheet shows that Scorpio-Jeep has been seized and inspected by Officer from the Transport Department. The report depicts that front bumper of the jeep was damaged and pressed inside at the center so also bonnet was damaged and pressed at the center. Left hand side corner of the windshield has been cracked. The motorcycle on which victims were riding shows corresponding damage. It is, therefore, evident that the dash was given by the Scorpio-Jeep to the motorcycle of the victims.

9. Aforesaid evidence will have to be looked from the angle of registration of previous offence against the victims wherein they are alleged to have committed murder of the family member of accused persons. Apparently, victims and his family member were proceeding to attend the Sessions Case at Nilanga on their motorcycle. Accused persons were knowing the date of hearing. Jeep in question was used as weapon of offence to give dash to the motorcycle riders.

10. Pertinently, this Court rejected the plea for grant of bail by one of the accused namely Ajit Balaji Solunke. This Court has observed that enmity is a double edged weapon that may be used for either purpose. There is prima facie evidence in the charge-sheet that shows complicity of the applicant in commission of the offence. The applicant is seen to have raised assault against the victims. One of them lost life due to brutal attack and another is seriously injured. Release of the applicant is likely to bring recurrence of similar incident.

In that view of the matter, no case is made out for grant of bail.
Hence, Bail Application stands rejected.

(S.G. CHAPALGAONKAR)
JUDGE

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