

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

941 BAIL APPLICATION NO.1618 OF 2023

ISHWAR DAGA WAGH
VERSUS
THE STATE OF MAHARASHTRA

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Advocate for Applicant : Mr. P. C. Mayure
APP for Respondent : Mr. S.B. Narwade

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CORAM : S. G. CHAPALGAONKAR, J.
Dated: September 29, 2023

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PER COURT :-

1. The applicant seeks regular bail in connection with Crime No.94 of 2023 registered with West Deopur police station Dhule, District Dhule for the offences punishable under sections 302, 307, 363, 364, 143, 147, 149, 323, 504, 506 of the Indian Penal Code.

2. The investigation was set in motion on the basis of the information given by Dadaji Bhaidas Wagh. He alleges that his nephew namely Gautam had dispute with Ambar Ishwar Wagh on account of some incident in the procession of 'Dr. Ambedkar Jayanti.' It is alleged that by 10.30 p.m. his nephew Gautam had not returned home. Hence, he searched for him. One Bajirao Subhash Wagh told him that Ambar Wagh and his brother Vilas Wagh took Gautam on motorcycle towards village Kundane. On further search by the informant, he noticed that mob was gathered near Udane Phata. He saw in the motorcycle light that accused Ambar @ Dadabhau Wagh, Vilas

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@ Kailas Wagh, Sunil Wagh, Yuvraj Wagh, Ishwar Wagh, Sonya @ Ravindra Wagh were assaulting Gautam by fists and kicks. Gautam had suffered multiple injuries on his person. When he was hospitalized for treatment, however, on next day, he succumbed to the injuries. Initially, FIR was lodged for the offence punishable under section 307 of the IPC. Subsequently, graver offence under section 302 has been added. During course of investigation, accused persons were arrested. Applicant has been arrested on 20.04.2023. Since then he is behind the bar.

3. Learned Advocate appearing the applicant would submit that the applicant has been falsely implicated. Investigation is complete. Charge-sheet is filed. Material in the charge-sheet is not sufficient to establish guilt against the applicant. Deceased Gautam died because of multiple injuries. No deadly weapon is used against him. The applicant is 60 years of age. His further detention would not be necessary.

4. Learned APP strongly opposes the prayer for grant of bail. He invites attention of this court to Post Mortem Report and submit that more than 60 injuries were noticed on person of the deceased. Cause of death is head injury. Underscalp Haematoma was present on right and left front-temporal region which may be responsible for death of deceased. He would submit that there are eye witness to the incident. Name of applicant is mentioned in the FIR. By inviting attention to the statement of witnesses Ravindra Jadhav & Bajirao Wagh he would submit that eye witnesses

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have also named the applicant as offender. Therefore, he urges to reject the applicaiton.

5. Having considered the submissions advanced, apparently, the incident took place on 14.4.2023. There was dispute between deceased Gautam and Ambar Wagh i.e. son of the applicant. Further, part of the FIR discloses that accused Ambar Wagh and his brother Vilas Wagh were seen carrying Gautam on their motorcycle. It is alleged that informant seen in motorcycle lamp that group of persons was assaulting the deceased by kicks and fists. Apart from accused Ambar Wagh and Vilas Wagh, names of the family members of accused are incorporated in the FIR. Perusal of the statement of eye witness Ravindra Jadhav would show that name of the applicant is missing. Other statements in the charge-sheet are based on hear-say information. Although, multiple injuries are seen on the body of the deceased, it can be observed that no deadly weapon has been used in commission of the offence. So far as role of the applicant is concerned, there are omnibus allegations. The applicant is behind bar from 20.4.2023. Trial would take it's own course. Further detention of the applicant is not necessary. In that view of the matter, case is made out for grant of bail. Hence, the order.

O R D E R

- i. Bail Application is hereby allowed.
- ii. The applicant- ISHWAR DAGA WAGH be released on bail in connection with Crime No.94 of 2023 registered with West Deopur police station, Dhule,

District Dhule for the offences punishable under sections 302, 307, 363, 364, 143, 147, 149, 323, 504, 506 of the Indian Penal Code on his furnishing P.B. & S.B. of Rs.50,000/- (Rs. Fifty Thousand) on the following conditions :-

- a] The applicant shall not tamper the prosecution evidence.
 - b] The applicant shall attend each and every effective date before the trial court.
 - c] The applicant shall not indulge in similar offence.
- iii. Bail application is accordingly disposed off.

(S.G. CHAPALGAONKAR J.)

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