

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

930 BAIL APPLICATION NO.1706 OF 2023

KHANDU SHARAD PANDHARE
VERSUS
THE STATE OF MAHARASHTRA

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Advocate for Applicants : Mr. Jadhav Satej S
APP for Respondent : Mr. S.P. Deshmukh

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CORAM : S. G. CHAPALGAONKAR, J.
Dated: October 19, 2023

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PER COURT :-

1. The applicant seeks regular bail in connection with Crime No.160 of 2023 registered with AUSA police station, District Latur for the offences punishable under sections 307, 324, 323, 504, 34 of the Indian Penal Code.

2. The investigation was set in motion on the basis of the information given by one Rohit Baburao Gumade dated 14.4.2023. It alleges that in the evening of 13th April, 2023 the informant and his companion had been to hotel Dwaraka on Budhoda to Latur road, two unknown persons came on the motorcycle and dodged them. The informant asked as to why they have been dodged. Unknown persons hurled abuses and hit him by fist and kick blows. The informant told about the incident to the co-villagers. They gathered at Chhatrapati Chowk and intercepted unknown persons. However, those persons raised attack of fist and kick blows and also inflicted stab injuries by knife on stomach and back of Suryakant,

Yuvraj, Ramesh and also on left leg of Samadhan and right hand of Abhishek. Injured persons were admitted in the Sahyadri Hospital, Latur. Based on the aforesaid information, crime no.160 of 2023 was registered against unknown persons. The applicant is arrested on 30.8.2023.

3. Mr. Jadhav learned Advocate appearing for applicant would submit that the applicant has been falsely implicated in commission of the offence. He invites attention of this court to Remand Yadi, which states that on 15.04.2023 the applicant was stated to be a suspected offender in connection with crime. Applicant had submitted his clarification with CCTV footage depicting that applicant was traveling in a bus at Pune on the day of incident. Copy of recording was also provided to investigating officer. Therefore, he was not arrested and suddenly on 30.08.2023 he is nabbed in aforesaid crime. He would submit that, although applicant is arrested on 30.08.2023, identification parade was not conducted nor is any evidence available on record to indicate involvement of applicant in subject crime. Therefore, he urge to release the applicant on bail.

4. Learned APP strongly opposes the bail application. He would submit that the applicant is identified by the complainant in test identification parade dated 10.10.2023. A knife is recovered at the instance of applicant. As such, there is sufficient evidence to show complicity of the applicant. Learned APP point outs that there are criminal antecedents to

discredit the applicant. As such, he opposes the prayer for grant of bail.

5. Having considered submissions advanced, it can be gathered that the incident in question took place on 13.04.2023. Applicant is arrested on suspicion on 30.8.2023. There is no material on record to show basis on which applicant is apprehended. T.I. Parade is conducted on 10.10.2023 i.e. after 40 days of arrest of the applicant. No reasons are assigned for inordinate delay in conducting the Test Identification parade. It is the trite that T.I. parade is not a substantive evidence that can be used as corroborative piece of evidence when other substantial evidence is available on record. Recovery of knife at the instance of the applicant would not be much relevance in absence of connecting evidence to depict that knife recovered was the weapon of offence. On overall consideration of the material on record, it is bereft to make out case against the applicant for alleged offences. Although there are criminal antecedents to discredit the applicant, further detention of applicant can not be permitted. Hence, case is made out for grant of bail subject to certain conditions.

ORDER

- i. Criminal Bail Application is hereby allowed.
- ii. The applicant - KHANDU SHARAD PANDHARE be released on bail in connection with Crime No.160 of 2023 registered with AUSA police

station, District Latur for the offences punishable under sections 307, 324, 323, 504, 34 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 not indulge into similar offences.
 - c] The applicant shall visit the concerned police station once in a week i.e. on every Friday between 10 am to 2 pm till filing of the charge-sheet.
 - d] After filing of the charge-sheet, the applicant shall attend the trial on each and every effective date.
- iii. Bail application is accordingly disposed off.

(S.G. CHAPALGAONKAR J.)

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