

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

**BAIL APPLICATION NO. 1754 OF 2023
WITH
CRIMINAL APPLICATION NO.3722 OF 2023**

1. Dau s/o Sahebrao Dawne
Age: 27 years, Occu: Private Service
R/o: Ward No.7, at post, Mahur Tq. Mahur
Dist. Nanded

... Applicant

Versus

1. State of Maharashtra
Through Police Station Officer
Mukundwadi, Police Station
Aurangabad

... Respondent

...
Mr. V. S. Nikalji, Advocate for the Applicant
Mr. K. S. Patil, APP for Respondent/State
Mr. S. B. Gastgar, Advocate for the Informant

...
CORAM : S. G. CHAPALGAONKAR, J.

DATE : 16.10.2023

PER COURT :

1. Heard the learned Advocate for the applicant, learned APP for the respondent/State and learned Advocate for the informant.
2. By this application, the applicant seeks regular bail in connection with Crime No.367/2021 dated 27/08/2023 registered with Mukundwadi Police Station, District Aurangabad for the offences punishable under Sections 452, 323, 509, 504 and 506 of the Indian Penal Code [for short

‘IPC’] and Section 3/25 of Arms Act, 1959 [for short ‘the Act’].

3. The informant - Reshma Mahesh Namoshe reported Mukundwadi Police Station that her sister, namely, Sushma Pankaj Mule has filed a case against accused - Nagesh Panchal for the offences punishable under Sections 354 (A), 354(B) and 354 (D) of IPC and Section 67, 66 C of the Information Technology Act. The informant is a witness in the said case. It is alleged that, on 27/08/2023 at about 9:30 am, while the informant was at her home, accused - Nagesh entered the house and hurled abuses towards her husband. Hearing the noise of quarrel, she came out and saw accused - Nagesh. He slapped her and pulled the pistol and threatened that her father and sister should withdraw the criminal cases filed against him, else he will kill all of them. Thereafter, accused - Nagesh fled away on the motorcycle along with two unknown accused persons. On the basis of aforesaid report, the aforesaid crime came to be registered.
4. The applicant came to be arrested on 29/08/2023 alleging he being one of the companion of the main accused, who drove him on the motorcycle. There is no other allegations against

the applicant. The tenor of the complaint raises accusations only against the accused no.1. In these background, learned Advocate appearing for the applicant submits that the applicant has been falsely implicated in absence of any role. He is entitled to be released on bail.

4. Learned APP as well as the learned Advocate appearing for the complainant strongly oppose the application. They would submit that offence is serious. The accused no.1 threatened the complainant and his family members and he was holding fire arm. During the course of investigation, the fire arm is recovered at the instance of the applicant, which shows his complicity in the commission of offence.
5. Having considered the submissions advanced, apparently, the informant has the grievance against accused no.1. It appears that, the complainant is a witness in a previous offence registered against accused no.1 and she alleges that the accused no.1 wants that the case filed against him by father and sister of the informant shall be withdrawn and for that purpose, he is threatening her.
6. Looking to the contents of the FIR and further material collected during the course of investigation, the recovery of pistol is shown at the instance of the applicant. However, it

is nobody's case that the applicant has used the fire arm or pistol in commission of offence. Only allegation against the applicant appears that he was waiting for the accused near the house of the informant and after end of the episode, they went together on motorcycle. *Prima facie*, with the allegations employed against the applicant, no offence can be attracted to implicate him. The applicant is behind the bars from the date of his arrest. The investigation in the matter is practically over. No antecedents brought on record to discredit the applicant. Further detention of the applicant would not be necessary. In that view of the matter, the the case is made for grant of bail. Hence, following order:

ORDER

- (I)** Bail Application is allowed.
- (ii)** The applicant, namely, Dau s/o Sahebrao Dawne, be released on bail in connection with Crime No.367/2021 dated 27/08/2023 registered with Mukundwadi Police Station, District Aurangabad for the offences punishable under Sections 452, 323, 509, 504 and 506 of IPC and Section 3/25 of the Act on furnishing P.B. and S.B. of Rs.50,000/- (Rs. Fifty Thousand) on the following conditions:
 - (a)** The applicant shall not tamper with the prosecution evidence / witnesses in any manner.
 - (b)** He shall not enter Aurangabad Corporation Area except for attending the hearing in the Court

or attending the Police Station.

(b) He shall attend the Police Station Mukundwadi as and when called.

(iii) Bail Application is disposed of accordingly.

(iv) In view disposal of bail application, Criminal Application is also disposed of.

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

Sameer