

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

BAIL APPLICATION NO.1779 OF 2023

SHANKAR SANTOSH SAPKALE
VERSUS
THE STATE OF MAHARASHTRA

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Mr. Harshal P. Randhir h/f Mr. Sejal K. Agrawal, Advocate for the Applicant.

Mr. K. S. Patil, APP for Respondents-State.

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**CORAM : S. G. CHAPALGAONKAR, J.
DATED : 25th OCTOBER, 2023.**

PER COURT:-

1. The applicant seeks regular bail in connection with Crime No.56/2023 registered with Bhusawal Taluka Police Station, District Jalgaon for the offences punishable under Sections 302, 307, 326, 341, 34 of the Indian Penal Code as well as Sections 25(3), 27 of the Arms Act.

2. The investigation was set in motion on the basis of the complaint given by Dhiraj Prakash Sonawane, who alleges that on 14.04.2023 he was proceeding in a car alongwith his companions namely Prakash Lohar, Akshay Sonawane and Mangesh Kale. While they were proceeding on Khadka Sakri Road via Railway over bridge towards Warangaon, a motorcycle intercepted them. Three persons were riding on the said motorcycle namely Karan Sapkale, Santosh Sapkale and Jivan Sapkale. When the informant and others alighted from the car, the accused Karan Sapkale removed pistol entangled at his waist and fired bullets causing injury to Akshay Sonawane and Mangesh Kale. Thereafter accused persons dispensed on their motorcycle. In

pursuance of the aforesaid information Crime No.56/2023 is registered with the Bhusawal Taluka Police Station, Dist. Jalgaon for the offences punishable under Sections 302, 307, 326, 341, 34 of the Indian Penal Code as well as Sections 25(3), 27 of the Arms Act. Subsequently, on death of Akshay Sonawane, the larger offence under Section 302 of the Indian Penal Code is added. The applicant has been arrested in pursuance of the aforesaid crime on 17.04.2023. Since then, he is behind the bar. His prayer for enlargement on bail has been rejected by the Sessions Court vide order dated 21.08.2023. Hence, this application.

3. The learned Advocate appearing for the applicant would submit that the contents of the FIR as well as the statements of the eye witnesses would depict that the applicant has played no role in commission of the offence. Only he is shown to be present alongwith co-accused persons. The applicant is old aged person, having physical deformity without any criminal antecedent. Hence, he urges to release the applicant on bail.

4. The learned APP however, strongly opposes the prayer for grant on bail on the ground that the applicant was seen alongwith the main assailants. There is recovery of weapon from the co-accused depicting involvement of three accused persons.

5. Having considered submission advanced, apparently there is no allegation against the applicant depicting his active participation in commission of the offence. The FIR specifically alleges that the accused Karan Sapkale took out pistol and fired bullet on victim. The material in charge-sheet nowhere depicts the motive on the part of the applicant or his active participation in executing the offence. *Prima facie*, it is difficult to gather common intention of the applicant with other accused persons.

The applicant is aged about 60 years. He is behind the bar for more than six months. Further detention of the applicant would not be necessary. Hence, case is made out for grant of bail. Hence, the following order:

ORDER

- (i) Bail Application is allowed.
- (ii) The applicant, Santosh Shankar Sapkale be released on bail in Crime No.56/2023 registered with Bhusawal Taluka Police Station, District Jalgaon for the offences punishable under Sections 302, 307, 326, 341, 34 of the Indian Penal Code as well as Sections 25(3), 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 not establish contact with any witnesses named in the charge-sheet.
 - c. The applicant shall attend each and every effective date before the Trial Court.
- (iii) Application is disposed of.

(S. G. CHAPALGAONKAR)
JUDGE