

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD
BAIL APPLICATION NO.1892 OF 2023**

RAMA BABARAO JUMBDE
VERSUS
THE STATE OF MAHARASHTRA

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Mr. N. S. Ghanekar, Advocate for the Applicant.
Mr. S. P. Deshmukh, APP for Respondents-State.

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**CORAM : S. G. CHAPALGAONKAR, J.
DATED : 30th OCTOBER, 2023.**

PER COURT:-

1. The applicant seeks regular bail in connection with Crime No.85/2023 registered with Tadkalas Police Station, District Parbhani dated 27.05.2023, for the offences punishable under Sections 302, 307, 324, 341, 295-A, 143, 147, 148, 149 of Indian Penal Code.

2. The investigation was set in motion on the basis of the information given by Gorasingh @ Sachinsingh Gurubachchan Dudhani, who alleges that on 27.05.2023 he alongwith his relative Arunsingh and Kirpalsingh had been to the village Pimpri Deshmukh with intention to catch stray pigs. When they were passing from vicinity of the Ukhalad Road, unknown persons obstructed their motorbike. The Jogindarsingh was riding the motorcycle. Suddenly some persons intercepted their motorcycle, thrown chilly powder in their eyes and thereafter, attacked on them. It is further alleged that due to such attack the informant suffered severe injuries. Arunsingh was assaulted by means of iron rod, Kirpalsingh was assaulted by fists and kicks on his abdomen. Because of assault of iron rod, Kirapalsingh became unconscious. Thereafter, someone called the police. On arrival of police, the informant and his injured companions were taken to the Civil Hospital at Parbhani, where Kirpalsingh was declared

as dead. The supplementary statement of the informant was recorded, where he has given further description regarding assault. He states that the assailants were calling each other by names Rama, Fajalu, Pasha and Ehjaj. He also alleges that their turbans were removed and religious feelings were insulted. In pursuance of the aforesaid information, Crime No.85/2023 registered with Tadkalas Police Station, District Parbhani. The applicant Sayed Ehjaj has been arrested on 27.05.2023, Sayed Akaram has been arrested on 29.05.2023, Sayyed Fajalu has been arrested on 31.05.2023 and Sayed Jamil has been arrested on 14.06.2023 and since then, they are behind the bar. The investigation progressed. The charge-sheet is filed. The applicants had moved Sessions Court for grant of bail, however, their plea is rejected. Hence, the present applications.

3. Mr. Ghanekar, learned Advocate appearing for the applicant submits that this Court in Bail Application No.1758/2023 alongwith other applications considered the plea of bail on behalf co-accused persons and after recording elaborate reasons granted bail. He would submit that the role attributed against the applicant is similar to that of role of accused Sayyed Fajalu and Sayed Jamil, who were applicants in Bail Application Nos.1763/2023 and 1758/2023. He points out that the accused, who are already enlarged on bail are attributed role that they were holding sticks in their hands and beating the victims. So far as the applicant is concerned, the allegation is that he was holding an iron rod. He would submit that the omnibus allegations are made against all these accused persons including the applicant. He would further point out that although there is discovery of an iron rod at the instance of the applicant, no blood stains or any incriminating substance was found on the iron rod. So far as identification parade is concerned, he would point out

that the witness has even identified dummy person, which vitiates sanctity of the identification parade. Hence, he urges to release the applicant on bail.

4. The learned APP strongly opposes the prayer for grant of bail. He would submit that the role of the applicant is distinguishable from the role of the accused Sayyed Fajalu and Sayed Jamil, in the sense that the applicant was holding an iron rod in his hands, which is deadly weapon. Apart from that, there is identification by the witness during identification parade and there are criminal antecedents to discredit the applicant.

5. Having considered the submissions advanced, it can be observed that this Court while considering the Bail Application No.1758/2023 alongwith connected Bail Applications in respect of present crime, recorded elaborate reasons and directed release of those applicants on bail. Similar reasons are available even for the present applicant, by invoking principles of parity. The role of the applicant is similar to the role of the accused Sayyed Fajalu and Sayed Jamil. Even, the material relied by the prosecution against the applicant is similar to those accused persons. So far as criminal antecedents are concerned, the learned APP points out that two offences were registered against the applicant, in one of which he has been acquitted on conclusion of trial and another offence is punishable under Section 452 of the Indian Penal Code. Therefore, only because one offence is pending trial against the applicant, that itself is not distinguishing factor for which the applicant can be denied bail. Hence, case is made out for grant of bail. Hence, following order:-

ORDER

- (i) Bail Application is allowed.

(ii) The applicant, Rama Babarao Jumbde be released on bail in Crime No.85/2023 registered with Tadkalas Police Station, District Parbhani dated 27.05.2023, for the offences punishable under Sections 302, 307, 324, 341, 295-A, 143, 147, 148, 149 of Indian Penal Code 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 attend the proceedings before the Sessions Court on each and every effective date.
- c. The applicants shall not establish contact with the witnesses named in the charge-sheet and shall not tamper with the prosecution evidence.

(iii) Application is disposed of.

(S. G. CHAPALGAONKAR)
JUDGE