

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD
BAIL APPLICATION NO.1935 OF 2023**

AKSHAY PRATAP NHAVKAR @ THAPA
VERSUS
THE STATE OF MAHARASHTRA

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Mr. Shaikh Nasimoddin Rafiyoddin, Advocate for the Applicant.
Mr. S. B. Narwade, APP for Respondents-State.

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**CORAM : S. G. CHAPALGAONKAR, J.
DATED : 07th NOVEMBER, 2023.**

PER COURT:-

1. The applicant seeks regular bail in connection with Crime No.63 of 2023 registered with Bhusawal Bazarpeth Police Station, District Jalgaon for the offences punishable under Sections 400, 401, 386, 393, 342, 324 109, 212, 323, 506, 427 r/w 34 of the Indian Penal Code and Sections 3/25, 25(6), 25(7), 25(8) of the Arms Act and Sections 37(1), 37(3) and 135 of the Maharashtra Police Act.

2. The investigation was set in motion on the basis of information given by one Jai Manoj Jadhav. He alleges that on 11.02.2023 while he alongwith his friends were passing from public way, at about 11 pm, the accused persons intercepted them and demanded ransom for using lane/road. The accused persons checked their pockets. They could not get anything. Since informant and his friend refused their demand of ransom, the accused persons raised assault on them. It is alleged that the accused Nikhil Rajput directed other accused persons to beat the informant and his companion, then accused Abhishek Sharma hit the informant by rod. Similarly, present applicant/accused raised assault of rod against Amar on his back. Even other accused persons have also assaulted Amar. On the basis of the aforesaid allegations, Crime No.63/2023 came to be registered against in all

five accused persons including applicant. The applicant has been arrested on 01.03.2023. Since then, he is behind the bar. The prayer of the applicant for grant of bail has been rejected by the Sessions Court vide order dated 23.08.2023. Hence, this application.

3. Mr. Shaikh, learned Advocate appearing for the applicant would submit that the applicant has been falsely implicated in the aforesaid crime. He would submit that the investigation is already completed. The charge-sheet is filed. Even going by the contents of the FIR, limited role is attributed against the applicant. By this time applicant has already suffered incarceration of about seven months. Hence, he seeks enlargement on bail.

4. The learned APP strongly opposes the prayer. He would point out that specific role is attributed against the applicant. There are previous six offences registered against applicant including one in which provisions of MCOC Act are invoked. He would point out that there is recovery of iron rod at the instance of the applicant under discovery panchanama as per Section 27 of the Evidence Act. He would further point out that the medical certificate of the injured Amar supports the allegation in the FIR. Apart from that, injured witnesses are also attributing role against the applicant.

5. Having considered submissions advanced and on perusal of the material in the charge-sheet, it can be gathered that in the alleged incident dated 11.02.2023 the applicant has been attributed with limited role of raising assault against the Amar Kasote. It is alleged that initially accused Abhishek Sharma assaulted on the head of the informant. Thereafter, accused Akshay is alleged to have raised assault on Amar Kasote

and hit him on back and neck. Further accused Nikhil Rajput alleged to have assaulted on left chick of the Amar. Perusal of the the injury certificate of Amar do not depict any injury on his back. Three injuries are seen on the body of Amar, one is on chick, second is on chest and third one is on eye. The nature of injury is classified to be simple.

6. Apparently, there is inconsistency in the narration recorded in the FIR and medical evidence placed on record. *Prima facie* genesis of the prosecution case is shaken. Pertinently, co-accused Pawan Chaudhari has been already released on bail by order passed by this Court dated 04.08.2023 in Bail Application No.1257/2023. The applicant is behind the bar for more than seven months. Although there are criminal antecedents, looking to the allegations in the present crime, further detention of the applicant need not be continued. Hence, case is made out for grant of bail subject to certain conditions. Hence, the following order:

ORDER

- (i) Bail Application is allowed.
- (ii) The applicant, Akshay Pratap Nhavkar @ Thapa be released on bail in Crime No.63 of 2023 registered with Bhusawal Bazarpeth Police Station, District Jalgaon for the offences punishable under Sections 400, 401, 386, 393, 342, 324 109, 212, 323, 506, 427 r/w 34 of the Indian Penal Code and Sections 3/25, 25(6), 25(7), 25(8) of the Arms Act and Sections 37(1), 37(3) and 135 of the Maharashtra Police 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 other witnesses named in the charge-sheet.
 - c. The applicant shall attend each and every effective date before the Trial Court.
 - d. The applicant shall not enter in Municipal limits of Bhusawal town for next six months, except for attending the trial.
 - e. After end of six months period, he shall attend the concerned police station twice in a month i.e. on second and fourth Monday between 10.00 am to 02.00 pm till conclusion of trial.
- (iii) Application is disposed of.

(S. G. CHAPALGAONKAR)
JUDGE