

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

**BAIL APPLICATION NO.1950 OF 2023
WITH
CRIMINAL APPLICATION NO.4032 OF 2023**

1. Sunil S/o Ishwar Wagh,
Age: 26 years, Occu. Agri
2. Yuvaraj S/o Ishwar Wagh,
Age: 24 years, Occu. Agri,
3. Sonya @ Ravindra S/o Ramdas Wagh,
Age: 24 years, Occu. Agri.

All R/o War, Tq. & Dist. Dhule ..Applicants

Versus

The State of Maharashtra
Through Police Station Officer,
West Deopur Police Station, Dhule,
Taluka & District: Dhule ..Respondent

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Mr. P. C. Mayure, Advocate for the Applicants.
Mr. K. S. Patil, APP for Respondents-State.
Mr. N. L. Chaudhari, Advocate to Assistant the APP.

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CORAM : S. G. CHAPALGAONKAR, J.

RESERVED ON : 06th NOVEMBER, 2023.

PRONOUNCED ON : 8th NOVEMBER, 2023.

ORDER:-

1. The applicants seek regular bail in connection with Crime No.94/2023 registered with West Deopur Police Station, Dist. Dhule for the offences punishable under Sections 302, 307, 363, 364, 143, 147, 149, 323, 504, 506 of the Indian Penal Code.

2. The investigation was set in motion on the basis of the information given by Dadaji Bhaidas Wagh. He alleges that his nephew namely Gautam had dispute with Ambar Ishwar

Wagh on account of some incident during procession of 'Dr. Ambedkar Jayanti.' It is alleged that till 10.30 p.m. his nephew Gautam did not return home. Hence, he searched for him. One Bajirao Subhash Wagh told him that Ambar Wagh and his brother Vilas Wagh took Gautam on motorcycle towards village Kundane. On further search, informant noticed mob was gathered near Udane Phata. He saw in the light of motorcycle that accused Ambar @ Dadabhau Wagh, Vilas @ Kailas Wagh, Sunil Wagh, Yuvraj Wagh, Ishwar Wagh, Sonya @ Ravindra Wagh were assaulting Gautam by fists and kicks. Resultantly, Gautam suffered multiple injuries on his person. He hospitalized injured Gautam for treatment, however, on next day, he succumbed to the injuries. Initially, FIR was lodged for the offence punishable under section 307 of the IPC. Subsequently, graver offence under section 302 has been added. During course of investigation, accused persons are arrested. Applicants have been arrested on 15.04.2023. Since then they are behind the bar.

3. Mr. Mayure, learned Advocate appearing for the applicants would submit that the applicants have been falsely implicated in the aforesaid crime. Although accident is dated 14.04.2023, the FIR has been lodged on the next day at about 17.15 hrs. As such, there is inordinate delay in lodging the FIR. He would submit that earlier this Court has granted bail to accused Ishwar Wagh in Bail Application No.1618/2023. The role attributed against the applicant is similar to that of Ishwar Wagh. Hence, applicants be enlarged on bail invoking ground of parity. He would further submit that the applicants are behind the bar for more than six months. There are no criminal antecedents. Further detention of the applicants would not be necessary.

4. The learned APP as well as Mr. Chaudhari, learned Advocate appearing for the complainant have vehemently opposed the prayer for grant of bail. They would submit that initially incident took place during the procession of Dr. Babasaheb Ambedkar Jayanti celebration. At that time accused Ambar Wagh had threatened the deceased Gautam. Thereafter, in the night after 10.30 pm accused Ambar Wagh and his brother Vilas Wagh took Gautam on their motorcycle towards Kundane village and brutally assaulted him causing as many as 65 injuries on his person, eventually resulting into his death. They would submit that the incident is witnessed by Ravindra Jadhav, who has clearly attributed role of applicants in commission of offence. The postmortem report shows cause of death to be head injury. However, multiple injuries were noted on his body. They would submit that the applicants cannot claim parity with accused Ishwar Wagh, since his name is missing in the statement of eye witness.

5. Having considered submissions advanced, it is apparent that the incident in question took place in the night of 14.04.2023. The FIR has been lodged on the next day at about 17.15 hrs. Perusal of FIR would show that the informant alleges that while he was searching for deceased Gautam, he found large gathering of people near Udane Phata where he alleged to have witnessed Ambar Wagh, Vilas Wagh alongwith present applicants beating Gautam by fists and kicks blows. He states that he witnessed this incident in the focus of the motorcycle lamp. Thereafter, Gautam was shifted to the hospital. There were bleeding injuries on his person. Pertinently, when the statement of the informant was recorded under Section 164 of the Criminal Procedure Code, he added that he witnessed Ambar Wagh and Vilas Wagh hitting Gautam by stones and Ishwar Wagh had stick

in his hand. Again the informant recorded his supplementary statement dated 10.05.2023 and withdrew the allegations regarding assault by stones or stick on the deceased. Apparently, the first informant is inconsistent with his stand. It is also difficult to believe that first informant witnessed the incident in the motorcycle lamp.

6. So far as witness Ravindra Jadhav is concerned, he alleges that he witnessed incident in the focus of the vehicles passing on the road. He states that the accused persons were beating deceased by fists and kicks blows. Since incident took place in dark night and victim was surrounded by large gathering, narration that witness could see assailants in focus lamp of running vehicles appears overstretched.

7. It is pertinent to note here that no weapon has been used in commission of the offence. The allegations against the accused persons are omnibus and general in nature. Further, there is inconsistency in the narration of the incident given by the informant in his three versions recorded so far. Observing inconsistency in the statements of the eye witnesses and informant, accused Ishwar Wagh is enlarged on bail. The charge-sheet shows that as regards to the incident during the procession of Dr. Babasaheb Ambedkar Jayanti, the FIR has been lodged against the victim for the offences punishable under Section 354 of the Indian Penal Code. The learned APP informs that earlier three similar crimes are registered against the victim for similar offences. There are no criminal antecedents to discredit the applicants. The applicants are behind the bar for more than six months. Further detention of the applicants would not necessary. In that view of the matter, case is made out for grant of bail subject to certain conditions. Hence, the following order:

ORDER

- (i) Bail Application is allowed.
- (ii) The applicants, Sunil S/o Ishwar Wagh, Yuvaraj S/o Ishwar Wagh and Sonya @ Ravindra S/o Ramdas Wagh, be released on bail in Crime No.94/2023 registered with West Deopur Police Station, Dist. Dhule for the offences punishable under Sections 302, 307, 363, 364, 143, 147, 149, 323, 504, 506 of the Indian Penal Code on furnishing P.B. and S.B. of Rs.50,000/- (Rs.Fifty Thousand only) each on following condition:
- a. The applicants shall not tamper with the prosecution evidence in any manner.
 - b. The applicants shall attend each and every effective date before the Trial Court.
 - c. The applicants shall not indulge in similar offence.
 - d. The applicants shall not enter village War, Dist. Dhule for the period of one year from the date of their release on bail.
- (iii) Application is disposed of.
- (iv) In view of disposal of the Bail Application, Criminal Application No.4032/2023 for assist to APP is allowed and accordingly disposed of.

(S. G. CHAPALGAONKAR)
JUDGE