

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

BAIL APPLICATION NO. 1983 OF 2023

RAJ @ BHOLA RAMCHARAN GUPTA
VERSUS
THE STATE OF MAHARASHTRA

...

Mr. Faisal Shaikh with Mr. Naseem R. Shaikh, Advocate for applicant
Mrs. P.J. Bharad, APP for respondent.

CORAM : S.G. CHAPALGAONKAR, J.

DATE : 5th DECEMBER, 2023

ORDER :-

1. The applicant seeks bail in connection with Crime No. 24 of 2023 registered with police station Faizpur, Taluka Yawal, Dist. Jalgaon for the offence punishable under sections 143, 147, 148, 149, 307, 302, 341, 323, 337, 504, 506 of IPC.

2. The investigation was set in motion on the basis of the information given by one Mukesh Tayade. He alleges that on 21.2.2023, while he was in the company of deceased Shubham and proceeding on a bike, the accused persons obstructed them and suddenly started pelting stone towards them. However, they proceeded further. Again, they were assaulted by accused persons near a tea stall at Aklud Toll Naka. It is alleged that accused Avinash Gupta, stabbed deceased Shubham on his chest. Accused Bhola stabbed Shubham on his stomach. Thereafter, accused Sagar Piwal took the knife from hand of Avinash and inflicted blow on the back of Shuhham. It is alleged that applicant Chakrya

inflicted injury on the thigh of Shubham using knife. Based on said information, Crime No. 24 of 2023 came to be registered with police station Faijpur. The applicant came to be arrested on 22.2.2023. Investigation progressed. Finally charge sheet came to be filed.

3. Mr. N.R. Shaikh, learned advocate for the applicant would submit that the applicant is falsely implicated in aforesaid crime. He would submit that although in the FIR, there are allegations that the applicant/accused has stabbed on the stomach of the deceased Shubham. The statement of the first informant recorded under Section 164 of Cr.P.C. gives a different version. He would point out from the contents of the 164 statement that applicant is alleged to have inflicted injury on the back of the deceased. He would further invite attention of this court to the statement of the eye witnesses, Ajit Patil, Roshan Koli, Dilip Koli and Madan Das to contend that all the statements of the eye witnesses consistently attributes assault by only one person i.e. Avinash Gupta. There is no reference of any role played by the applicant. He would point out that the FIR itself is unbelievable and inflated. He would point out that accused Akash @ Chakrya is granted bail by the order of this Court vide order dated 7th September, 2023. He would submit that there is no incriminating article recovered from the applicant. As such, the applicant may be released on bail.

4. The learned APP opposes the prayer for grant of bail. He would submit that the FIR attributes specific role of the applicant, who stabbed on the stomach of the deceased. He would submit that even the eye witnesses are consistent regarding presence of the applicant on the spot. Release of the applicant is likely to create hurdle in trial. However,

be confirms that there are no criminal antecedents against the applicant.

6. Having considered the submissions advanced, at the first blush, after perusal of the FIR, it appears that there are specific allegations against the applicant in commission of the offence. He is attributed to have inflicted stab injury on the stomach of the deceased Shubham. Pertinently, the statement of first informant under section 164 of the Cr.P.C. has been recorded wherein informant states that the applicant has inflicted injury on the back of the deceased Shubham. This version is diagonically opposite to the version given in the FIR. Perusal of the statements of the eye witnesses referred to above, clearly depicts that only accused Avinash Gupta is alleged to have inflicted injuries on deceased Shubham on his back, stomach, chest etc. None of the eye witnesses attribute assault by any other person except accused Avinash Gupta. The medical evidence on record suggests that death is attributable multiple stab wounds. However, in the light of the material inconsistency in the statement under Section 164 and the FIR, and after considering the statements of the eye witnesses, a case is made out for grant of bail, however, subject to certain conditions.

O R D E R

- (i) The application is allowed.
- (ii) Applicant – Raj @ Bhola Ramcharan Gupta, be released on bail on furnishing P.B. and S.B. of Rs. 50,000/- (rupees fifty thousand) with one solvent surety of the like amount, in connection with Crime No. 24 of 2013 registered with Faizpur Police Station, Tal. Yawal, Dist. Jalgaon, for the offences punishable under Sections 143, 147, 148, 149, 307, 302,

341, 323, 337, 504 and 506 of IPC, on the following conditions :-

- (a) He shall not make attempt to contact any witness in the charge sheet and shall not tamper with the prosecution evidence.
- (c) He shall attend the trial on each and every effective date.
- (iii) Application stands disposed of accordingly.

[S.G. CHAPALGAONKAR]
JUDGE

grt/-