

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

13 BAIL APPLICATION NO.1989 OF 2023

ANAND GAJANAN CHOUDHARY
VERSUS
THE STATE OF MAHARASHTRA

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Advocate for Applicants : Mr. C.C. Deshpande
APP for Respondent : Mr. A.S. Shinde

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CORAM : S. G. CHAPALGAONKAR, J.
Dated: November 30, 2023

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PER COURT :-

1. The applicant seeks regular bail in connection with Crime No.134 of 2023 registered with Dondaicha police station, District Dhule for the offences punishable under sections 302, 120-B, 379 of the Indian Penal Code.

2. Investigation was set in motion on the basis of the information given by one Sagar Chondu Nivane, who runs a hotel namely Pushpa on Dondaicha to Nandurbar Highway. He has employed the servants for conduct of his business including the deceased Naresh. It is further stated that employee namely Naresh Sahu, Ganesh Koli and Ranjit Pawara resides in the hotel. It is further alleged that on 7.5.2023 informant had left the hotel at 11.30 p.m. Next morning he received information from Ranjit Pawara that at about 2 pm in the night, there was quarrel between deceased Naresh Sahu and accused no.1 Ganesh Koli, who stabbed into stomach of Naresh. Dead body of Naresh is laying in the first room of the

hotel. Accordingly, crime no.134 of 2023 has been registered with police Station Dondaicha, District Dhule. Only, accused Ganesh is shown in the column of the accused. Investigation progressed. During course of the investigation, statement of Ranjit Pawara is recorded, wherein he refers to presence of the present applicant alongwith accused Ganesh in the night. After completion of the investigation, charge-sheet is filed against in all four accused persons including two juveniles.

3. Mr. Deshpande, learned advocate appearing for the applicant would submit that the applicant is not named in the FIR. Even, during course of the investigation, no incriminating material could be gathered to show participation of the applicant in commission of the alleged offence. He would submit that merely because one of the witness asserts presence of the applicant at the spot of the incident, the applicant has been implicated as an accused. He would submit that the applicant is arrested on 9.5.2023. Since then he is behind the bar. Investigation in the crime is completed. Charge-sheet is filed. Further detention of the applicant would not be necessary.

4. Mr. Shinde, learned A.P.P. strongly opposes the prayer for grant of bail. By inviting attention of this Court to the statement of Ranjit Pawra, he would point out that in fateful night applicant had accompanied accused Ganesh and there was a quarrel since deceased had not opened the door of the hotel. The applicant was seen in the company of said

Ganesh. He would therefore submit that complicity of the applicant can be gathered from the aforesaid evidence.

5. Having considered the submissions advanced, apparently, FIR is lodged by owner of the hotel on the basis of the information received from Ranjit, wherein he has disclosed that accused Ganesh has inflicted blow of knife on stomach of deceased Naresh and Naresh, who was found laying in the pool of blood in front room of the hotel, FIR nowhere asserts presence of the applicant at the spot of the incident nor any role is attributed against him. The charge-sheet is filed after investigation. Statement of Ranjit is recorded where he narrates the incident and asserts that the applicant was in the company of accused Ganesh. He further states that Ganesh had entered into hotel from a window and there was some scuffle between Ganesh and deceased Naresh. If narration of the incident as given by Ranjit is taken into account, at the most presence of the applicant alongwith Ganesh at the hotel can be gathered. However, once there are specific allegations against accused Ganesh regarding making assault against deceased, it is difficult to hold applicant to be responsible for the death of Naresh. The medical evidence is not brought on record to show that the deceased had received any other injury except stab injury which is attributed to Ganesh. The applicant is behind bar for more than six months. On the basis of the material in the charge-sheet, further detention of the applicant need not be continued. Hence, case is made out for grant of bail. Hence, the order.

ORDER

- i. Bail Application is hereby allowed.
- ii. The applicant - ANAND GAJANAN CHOUDHARY be released on bail in connection with Crime No.134 of 2023 registered with Dondaicha police station, District Dhule for the offences punishable under sections 302, 120-B, 379 of the Indian Penal Code on his furnishing P.B. & S.B. of Rs.50,000/- (Rs.Fifty Thousand), on the following conditions :-
 - a] The applicant shall not tamper the prosecution evidence.
 - b] The applicant shall attend each and every effective date before the trial court.
- iii. Bail application is accordingly disposed off.

(S.G. CHAPALGAONKAR)
JUDGE

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