

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

BAIL APPLICATION NO.1995 OF 2023

SHIVAJI MARUTI MANE
VERSUS
THE STATE OF MAHARASHTRA

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Advocate for Applicant : Mr. P. P. More
APP for Respondents: Mr. K.S. Patil

CORAM : S.G. CHAPALGAONKAR, J.

DATE : 9th NOVEMBER, 2023

ORDER :-

1. The applicant seeks regular bail in connection with Crime No. 129 of 2021 registered with Nilanga Police station, Dist. Latur for the offences punishable under Sections 302, 307, 143, 147, 148, 149, 324, 323, 504, 506 of IPC and Section 135 of the Maharashtra Police Act.

2. The investigation was set in motion on the basis of information given by Akash Anil Solunke, who states that there was some dispute between the accused and his family members. On 17th May, 2021, he was proceeding alongwith his father and the maternal cousin Raju on motorcycle, they went to District Central Bank, Nilanga and withdrew some amount. In return journey, at about 3.00 p.m., they crossed village Sindkhed, where, they were intercepted by accused persons. All of them had arrived in 3 different vehicles, which include Mahindra Bolero Jeep, Innova Car, and Hyundai Creta car. The accused

persons alighted from the vehicle. The present applicant alleged to have alighted from innova car. It is alleged that accused persons were holding sticks in their hand and hurled abuses towards the father of the victim. Apprehending attack, the informant took his motorcycle towards Sindkheda Gunjarga road. The accused persons followed them and then attacked by means of stick and stones towards his father. Even they attacked the informant. It is further alleged that accused Siddheshwar Mane attempted to inflict injury of knife on stomach of the informant however, it landed on his right hand. Accused Vyankat Mane, Deepak Karan Solunke, Vikram Karan Solunke, Bibhishan Pawar, Shekhar Pawar, Rahul Pawar assaulted him by sticks. According to informant, because of the assault by accused and injuries suffered, his father lost life.

4. The investigating progressed on the basis of aforesaid information. Charge sheet has been filed. The applicant is arrested on 25th August, 2023. Since then, he is behind bars.

5. Mr. P.P. More, learned advocate for the applicant submits that the applicant seeks bail on 3 counts. Firstly, co-accused Sachin Solunke is granted bail by order of this court dated 5.5.2022 in Bail Application No. 553 of 2022. The role attributed against Sachin Suresh Solunke is similar to the role attributed against the applicant. Secondly, the perusal of the FIR or statement of the so called eye witnesses, nowhere attribute specific role against the applicant. Thirdly, the applicant is aged about 69 years. In that view of the matter, further detention of the applicant would not be necessary.

6. Learned APP strongly opposes the applicatin on the ground

that it is a case of heinous crime of murder. Mr. Shrikant Kawade learned advocate for the complainant opposes the bail on the ground that applicant is an habitual offender. Many offences are registered against him. Further, his age is wrongly stated to be 69 years. In fact, he is 61 years old. Mr. Kawade would specifically point out that initially while filing charge sheet the applicant was shown absconding. After more than 2 years, he has been arrested. He would submit that the name of the applicant is specifically mentioned in the FIR, so also, in the statement of the eye witnesses. The offence under Section 302 r/w. 149 are invoked. The applicant was member of unlawful assembly. As such, he shares vicarious liability alongwith other accused persons. He, therefore, urges for rejection of the application.

7. Having considered the submissions advanced and after considering the material and the charge sheet, it can be observed that large number of accused are enlisted in the FIR to be present on the spot. Name of the applicant so also name of accused Sachin Solunke is appearing to be persons who alighted from Innova Car at the time of incident. However, narration in the FIR do not depict specific attributions against the applicant so also accused Sachin Solunke. Perusal of the statement of alleged eye witnesses Ram Satbhai, Amar Salunke and Anil Mohite also refers the name of the applicant, however, without specific attributions. This Court has considered the aforesaid aspects while granting bail to accused Sachin Solunke in Bail Application No. 553 of 2022. Since role attributed against accused Sachin Solunke already on bail is similar to that of the applicant, the principle of parity requires that applicant shall also be enlarged on bail.

8. So far as contention raised on behalf of the informant that the applicant was absconding for more than 2 years, Mr. PP. More, learned counsel for applicant submits that he was pursuing remedy of pre-arrest bail. After his arrest, supplementary charge sheet is filed on completion of investigation and thereafter, the present application is move. In that view of the matter, although the applicant has been belatedly arrested, considering the role attributed against him and other material available in the charge sheet, a case is made out for grant of bail. Hence, the following order.

9. O R D E R

- (i) The application is allowed ;
- (ii) The applicant – Shivaji Maruti Mane, be released on bail on furnishing P.B. and S.B. of Rs. 50,000/- with one surety in the like amount in connection with Crime No. 129 of 2021 registered with Nilanga police station, Dist. Latur for the offences punishable under Sections 302, 307, 143, 147, 148, 149, 324, 323, 504, 506 of IPC read with Section 135 of the Maharashtra Police Act conditions :-
 - [a] The applicant shall not tamper with the evidence ;
 - [b] The applicant shall attend each and every effective date of hearing before the trial court.
 - [c] The applicant shall furnish details of his address and contact numbers with the investigating officer and update the same from time to time.
 - [d] The application is disposed of.

[S.G. CHAPALGAONKAR]
JUDGE