

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

919 BAIL APPLICATION NO.2022 OF 2023

YOGESH SHIVAJI MHASKE
VERSUS
THE STATE OF MAHARASHTRA

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Advocate for Applicant : Mr. Abhaysinh K. Bhosle
APP for Respondent : Ms. P.J. Bharad
Advocate for complainant : Mr. K.F. Shingare

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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.878 of 2023 registered with MIDC Waluj police station, District Aurangabad for the offences punishable under sections 307, 323, 504, 506, 120-B, r/w 34 of the Indian Penal Code and u/s 135 of the Bombay Police Act.

2. Investigation was set in motion on the basis of the information given by one Deepak Hareram Bade, who alleges that on 23.10.2022 he received information from his brother Pradeep Bade that he had been to Rajniti Hotel for dinner. Accused/applicant came there and hurled abuses. It is further alleged that on the same day, Pradip had been to Dandiya organized by Rajmudra Pratishthan. Accused no.2 Satyam and accused no.3 Sunil had been there. Accused Sunil caught hold Pradip and accused Satyam gave him stab blow using knife. It is further alleged that, while doing so, they were uttering that they are sent by applicant Yogesh and also threatening him in

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his name. In pursuance of the aforesaid information, crime no 878 of 2023 came to be registered with the police station Waluj for the aforesaid offences. The applicant has been arrested on 24.10.2023. Since then, he is behind the bar. His prayer for grant of bail has been rejected by the Court of Sessions vide order dated 6.11.2023.

3. Mr. Bhosale, learned advocate appearing for the applicant would submit that, admittedly, applicant is not alleged to have participated in commission of the actual assault. However, he has been implicated with the allegations that assailants have committed the offence at the instance of the applicant. He would submit that there is no evidence of conspiracy. However, on account of previous dispute, the applicant has been falsely implicated. He would submit that the applicant is behind bar for more than six weeks by this time. His further detention would not be necessary.

4. Learned A.P.P. as well as the learned advocate appearing for the complainant have strongly opposed the prayer. They would submit that the applicant is a habitual offender and as many as five offences have been previously registered against him. They would urge that although the applicant was not present at the spot, assailants have specifically uttered that they have been raising assault at the instance of the applicant/accused. As such, it is submitted that there is sufficient material to bring home complicity of the applicant in commission of the offence.

5. Having considered the submissions advanced, it is apparent that role of the applicant is attributed in incident occurred at 10.30 p.m. at hotel Rajniti, where the applicant is alleged to have hurled abuses to the victim. Second part of incident took place at about 11.30 pm at Dandiya function. The specific allegations are incorporated in the FIR that accused Satyam gave stab blow to the victim. Even, presence of the applicant is not attributed at the spot of the incident. So far as allegations regarding conspiracy are concerned, except statement of the informant in the FIR, no other evidence is brought before this Court. Prima facie, it appears that there is previous dispute between the informant and the applicant/accused. As urged on behalf of the applicant, possibility of false implication of the applicant cannot be ruled out particularly in absence of cogent evidence to bring home the complicity of the applicant in commission of the offence. In that view of the matter, when investigation is practically over, further detention of the applicant need not be permitted. Hence, case is made out for grant of bail. Hence, the following order.

O R D E R

- i. Bail Application is hereby allowed.
- ii. The applicant - YOGESH SHIVAJI MHASKE be released on bail in connection with Crime No.878 of 2023 registered with MIDC Waluj police station, District Aurangabad for the offences punishable under sections 307, 323, 504, 506, 120-B, r/w 34

of the Indian Penal Code and u/s 135 of the Bombay Police Act 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 the concerned police station once in a week i.e. on every **Friday** between 10 am to 2 pm till filing of the charge sheet.
 - c] The applicant shall not indulge himself in similar offences.
- iii. Bail application is accordingly disposed off.

(S.G. CHAPALGAONKAR)
JUDGE

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