



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD
BAIL APPLICATION NO.2034 OF 2023**

SWAPNIL ROHIDAS SHINDE
VERSUS
THE STATE OF MAHARASHTRA

...
Mr. G. K. Naik-Thigle, Advocate for the Applicant.
Mrs. P. J. Bharad, APP for Respondent-State.

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CORAM : S. G. CHAPALGAONKAR, J.
DATED : 15th DECEMBER, 2023.

PER COURT:-

1. The applicant seeks regular bail in connection with Crime No.1030/2023 dated 16.07.2023 registered with Rahuri Police Station, District Ahmednagar for the offences punishable under Sections 302, 326, 324, 323, 143, 147, 148, 149, 108, 307, 325, 341 of the Indian Penal Code, Sections 3/25 of the Arms Act and Sections 37(1)(3)/135 of the Maharashtra Police Act and Section 7 of the Criminal Law Amendment Act.

2. The investigation was set in motion on the basis of information given Balasaheb Bhanudas Somwanshi. In nutshell, he alleges that on 15.07.2023 at about 10.39 pm he received phone call from his mother-in-law Kamalbai that Ankush (deceased) had suffered injuries in quarrel with some boys and asked informant to get the details. When informant attempted call to Ankush, it went unattended. Thereafter, he received information that Ankush is shifted to Max Care Hospital. The informant rushed to the hospital, on the way to hospital he met with Chandan Dhawan, who told that at about 10.15 pm Ankush had some altercation with Aditya Auti. One Raju Phulari asked Ankush to wait for conversation. While Ankush was waiting for him, some boys arrived on two motorcycle and in two black four wheelers.

The applicant-Swapnil Shinde was sitting beside driver in one of the four wheeler from which boys alighted. Amongst those accused Abhijeet Bulakh, Suraj @ Mikya Kamble, Vibhya Kamble, Mahesh Kurhe and other 7 to 8 persons were identified. They were holding deadly weapon like iron rod, glass bottles and wire ropes in their hands. The accused Mahesh Kurhe was holding fire arm. All the accused persons approached towards Ankush and threatened him in the name of the applicant-Swapnil Shinde, then raised attack of iron rod and wires on Ankush. Because of terror created by assailants, passers from the road started running, the owners of shops and other establishments suddenly closed shutters. After sometime, four wheeler returned and parked near City Pride Hotel. The applicant-Swapnil Shinde alighted from the vehicle and instructed aforesaid assailants to finish Ankush. While Ankush started running to save himself from clutches of assailants, because of injuries sustained by him, he felled down. The accused Suraj Kamble and Mahesh Kurhe again raised assault of iron rod on his person. The accused Abhijeet Bulakh was instigating them to kill Ankush and himself assaulting Ankush by iron rod. At that time, applicant/accused-Swapnil Shinde approached to Ankush who was laying on the road and instructed assailants to confirm if he is dead, else finish him and leave the place early. Because of such instigation, again assailants raised one more round of assault on Ankush, created terror in the locality and flee away in the vehicles.

3. The Ankush had suffered severe injuries. He was unconscious. Then he is shifted to Max Care Hospital.

4. After hearing the information given by Chandan Dhawan, the informant rushed in hospital where he saw that Ankush was put under medical supervision in ICU. He had

suffered severe head injuries. It is accordingly alleged that Ankush was attacked on instigation of applicant-Swapnil Shinde and all accused persons attempted to kill him. The aforesaid information was recorded with the Police Station leading to registration of crime against in all six named and 7 to 8 unnamed assailants. The applicant has been arrested in pursuance of the aforesaid crime on 17.07.2023. He was remanded to police custody till 25.07.2023. Since then, he is taken in MCR. On completion of investigation, charge-sheet is filed before Chief Judicial Magistrate, Dist. Ahmednagar. The applicant moved Criminal Bail Application No.1566/2023 seeking regular bail, however his application came to be rejected vide order dated 31.10.2023. Hence, this application.

5. Mr. Naik-Thigle, learned Advocate appearing for the applicant vehemently submits that the applicant has been falsely implicated in the aforesaid crime because of political rivalry. He is unconcerned with the alleged offence. By inviting attention of this Court to the contents of the FIR Mr. Thigle would submit that narration in the FIR is based on hearsay information. There is delay in lodging FIR. The incident that took place in the night of 15.07.2023 has been reported to police on 16.07.2023 to introduce concocted version of offence. Mr. Thigle would further contend that neither applicant is attributed role in actual assault nor has he played any role in the actual incident. He would submit that the deceased had many criminal antecedents. As many as 10 offences were registered against him. The assailants might have attacked him because of their enmity. The evidence in the charge-sheet is bereft to make out case of conspiracy. There is inconsistency in the statements of alleged eye witnesses namely Vikas Dhawan and Chandan Dhawan. The investigation

in the matter is complete. The charge-sheet is filed. The applicant is ready and willing to abide any condition that deems fit in the interest of prosecution.

6. The learned APP strongly opposes the prayer for grant of bail. She would submit that the charge-sheet contains clinching evidence to establish complicity of the applicant in commission of offence. The statements of two eye witnesses namely Chandan Dhawan and Vikas Dhawan clearly depict the role of the applicant. She would invite attention of this Court to the transcript of CCTV footage, which depicts presence of the applicant on the spot while making gestures to the assailants. She would submit that the applicant is master mind and chief conspirator in the offence. She would submit that there are criminal antecedents to discredit the applicant. The large number of serious offences are registered against him.

7. Having considered submissions advanced and after going through the contents of the charge-sheet, it can be gathered that the applicant is named in the FIR and his role as chief conspirator has been narrated in detail on the basis of the information given by Chandan Dhawan (an eye witness) to the first informant. Perusal of statements of Chandan Dhawan and his brother Vikas Dhawan clearly suggest that the assailants arrived at the spot in two black four wheeler. The applicant was sitting beside driver in one of the vehicle. The assailants alighted from those vehicles. Thereafter, applicant proceeded in the same vehicle. Those who alighted from the vehicles were holding deadly weapons in their hands. They raised brutal attack against Ankush uttering name of the applicant. After first round of attack, the applicant returned back in same four wheeler, saw Akush laying injured on the road and asked the assailants to

confirm that he is dead or else finish him and leave the place early. On his instigation, again Ankush was attacked.

8. The CCTV footage alongwith its transcript is made part of the charge-sheet, which clearly depicts presence of applicant on the spot while moving in four wheeler which carried the assailants with weapons and subsequent activities. The aforesaid evidence available on record clinchingly pin points role of the applicant as conspirator. The applicant appears to have arranged the attack, availed services of the other assailants, provided then requisite aid and monitored attack. So far as delay in lodging of the FIR is concerned, it does not appear to be inordinate. The deceased Ankush was shifted to the hospital. The first informant is his relative. The incident that took place in the night on 15.07.2023 at 10.15 pm has been reported to police on 16.07.2023 at 06.47 am, which is on the next morning. At this stage, *prima facie* there is no reason to disbelieve the case of prosecution. Pertinently, there are criminal antecedents to discredit the applicant. Many criminal cases for serious offences have been registered against him that depict his active criminal mentality. Release of the applicant is likely to influence material witnesses. The applicant likely to intimidate them. The case in hand depicts planned murder out of land disputes. Resultantly, there is no merit in the application. Hence, Bail Application stands rejected.

(S. G. CHAPALGAONKAR)
JUDGE