



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD
BAIL APPLICATION NO.2159 OF 2023**

SHAIKH MEHBOOB @ GORYA SHAIKH BABU
VS
THE STATE OF MAHARASHTRA

...
Mr. Nilesh S. Ghanekar, Advocate for the Applicant.
Mrs. P. J. Bharad, APP for Respondents-State.

...
CORAM : S. G. CHAPALGAONKAR, J.
DATED : 19th DECEMBER, 2023.

PER COURT:-

1. The applicant seeks regular bail in connection with Crime No.195/2023 registered with Nanded Rural Police Station, Dist. Nanded for the offences punishable under Section 307 of the Indian Penal Code.

2. The investigation was set in motion on the basis of the information given by one Kailas Datta Lingayat. It is alleged that on 20.03.2023 at about 09.00 pm he was proceeding towards his village in his auto rickshaw, at that time unknown culprit aged about 20 to 21 years intercepted auto rickshaw and asked the informant to drop him at Railway Station. When informant refused, he suddenly banged into auto rickshaw and stabbed knife on the back of the informant. On 22.03.2023 applicant came to be arrested in pursuance of the aforesaid crime. Since then, he is behind the bar. The investigation progressed. The charge-sheet has been filed. The prayer of the applicant for grant of regular bail has been rejected by the Court of Sessions vide order dated 13.09.2023. Hence, this application.

3. Mr. Ghanekar, learned Advocate appearing for the applicant would submit that the applicant has been falsely implicated in the aforesaid crime owing to the criminal antecedents. He would submit that no admissible evidence could

be secured during investigation to bring home guilt of the applicant. He would point out that although culprit was unknown to the first informant, no identification parade is carried. The identity of the applicant is sought to be established on the basis of the photographs shown to the witnesses. He would submit that the recovery of blood stained clothes brought on record, however, the seizure panchanama is bereft of the material particulars. The applicant is behind the bar for the period of nine months. Hence, he urges to release the applicant on bail.

4. The learned APP strongly opposes the prayer for grant of bail. She would submit that the applicant is hardened criminal. There are seven previous offences registered against him. The present offence is serious. The first informant suffered grievous injuries. During the course of investigation, sufficient material is collected and made part of the charge-sheet by which guilt of the applicant can be established.

5. Having considered submissions advanced, apparently FIR is against unknown culprit. The first informant has given description of the culprit with minute detail. Surprisingly, the applicant/accused was not subjected to identification parade. It appears that only the photograph available in the record of the police was shown to the first informant for identification. Similarly photograph of the applicant was shown to the witnesses, for identifying him. Apparently, the procedure carried for identification of the accused is aligned to the established procedure under law. Secondly prosecution relied on seizure of blood stained clothes in the house search. However, the panchanama nowhere refers place whether such clothes were found. Although in the description of the articles reference is given about blood stained shirt, the report is still awaited.

6. Considering the evidence on record, identity of the applicant being culprit cannot be inferred for want of admissible and reliable evidence on record. *Prima facie*, the material in the charge-sheet is bereft to make out case against the applicant. The applicant is behind the bar from 22.03.2023. The period of nine months is passed. The trial is at nascent stage. In that view of the matter, further detention of the applicant need not be continued. Hence, case is made out for grant of bail on certain condition. Hence, the following order:

ORDER

- (i) Bail Application is allowed.
- (ii) The applicant, Shaikh Mehboob @ Gorya s/o Shaikh Babu be released on bail in Crime No.195/2023 registered with Nanded Rural Police Station, Dist. Nanded for the offences punishable under Section 307 of the Indian Penal Code on furnishing P.B. and S.B. of Rs.50,000/- (Rs.Fifty Thousand only) each on following condition:
 - a. The applicant shall not tamper with the prosecution evidence in any manner.
 - b. The applicant shall attend each and every effective date before Trial Court.
 - c. The applicant shall furnish details of his residential address alongwith contact numbers with Investigating Officer and shall update the same time to time.
- (iii) Application is disposed of.

(S. G. CHAPALGAONKAR)
JUDGE