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

BAIL APPLICATION NO. 2190 OF 2023

RUSHIKESH KAILAS BEDRE

....Applicant

VERSUS

THE STATE OF MAHARASHTRA

.....Respondent

Mr. V.D. Sapkal, Senior Advocate i/b. Vishal S. Kadam
a/w. Balasaheb N. Magar Patil a/w. Mr. Umesh Mote,
a/w. Mr. Ravindra Nirmal a/w. Mr. P.P. More, Advocate for applicant.
Mr. S.A. Gaikwad, APP for respondent.

CORAM : S.G. CHAPALGAONKAR, J.

DATE : 14th DECEMBER, 2023.

ORDER :-

1. The applicant seeks regular bail in connection with Crime No. 369 of 2023 dated 2.9.2023 registered with Gondli Police Station, Taluka Ambad, District Jalna, for the offences punishable under Sections 307, 333, 332, 353, 427, 435, 120-B, 143, 147, 148, 149 of IPC read with Section 135 of the Bombay Police Act and Section 3 of Prevention of Damage to Public Property Act, 1984.

2. The investigation was set in motion on the basis of information given by Ganesh Trimbakrao Raut, Police Sub-Inspector, at Police Station Gondli, Taluka Ambad, Dist. Jalna. In nutshell, the FIR alleges that on 29.8.2023, protest procession was arranged at village Antarwali Sarati. Mr. Manoj Jarange was on hunger strike. His medical condition was deteriorating because of continuous hunger. The police officers were keeping watch on his health condition. He was direly in need of medical supervision and assistance. In spite of several requests from administration to desist from continuation of hunger strike, it was continued. When police officers were making endeavour to provide medical aid to Mr. Manoj Jarange, police officers were obstructed by

the unlawful assembly and the police officers on duty were attacked by means of stones. Although the police officers warned protestors from indulging into illegal activities, they became violent. Large number of police officers suffered injuries. Lady police officer was confined. The vehicles were damaged. The police was forced to raise counter attack by way of Lathi Charge to disperse the mob. It is alleged that instigators of the offence were identified and arrested. The applicant is arrested on 24.9.2023. it appears that on the basis of aforesaid complaint, offence against in all 16 named accused persons including the applicant and 300 to 350 unidentified accused was registered. The prayer of the applicant for grant of bail has been rejected by order of the Additional Sessions Judge, Ambad vide order dated 30.11.2023.

3. Mr. Sapkal, learned Senior Advocate appearing for the applicant would submit that the applicant has been arrested merely on suspicion. By inviting attention of this court to the contents of the FIR, he would submit that no specific role is attributed against the applicant. The general allegations are levelled against members of so-called unlawful assembly. Total 16 persons are named in the FIR to be participants of the procession. He would submit that although the applicant was remanded to police custody, nothing incriminating could be recovered from him. Other accused person who were arrested in pursuance of the aforesaid crime are already enlarged on bail. Even on the ground of parity, the applicant is entitled for similar treatment.

4. Learned APP strongly opposes the prayer. He would submit that the applicant was the prime instigator in commission of offence, wherein, more than 60 to 70 police officers have suffered serious injuries. It is a case of criminal conspiracy. The applicant has been arrested being prime accused. He would invite attention of this court to the criminal antecedents which depict that as many as 22 offences are registered against the applicant with police station, Georai, Dist. Beed and Police Station, Gond, Dist. Jalna. He would submit that the release of the applicant may give rise to the recurrence of

similar incident. Investigation in the matter is in progress. Video clips in respect of the incident are available . Applicant can be seen as a prime instigator. He would, therefore, urge that the applicant do not deserve discretionary relief of bail.

5. Having considered the submissions advanced, perusal of the contents of the FIR and investigation papers tendered across bar, it is apparent that in an unfortunate incident, large number of persons suffered injuries including police officers. The contents of the FIR depicts that police officers in their endeavour to provide medical assistance to maintain the health of Mr. Manoj Jarange, went to place of hunger strike. After taking survey of his health condition, the police officers were making effort to desist him from continuation of the hunger strike. However, large gathering of persons obstructed/prevented the police officers from executing their duty. However, there are no specific allegations against any accused including the applicant. The FIR states that members of unlawful assembly pelted stones on the police squad causing serious injuries to them. The applicant alongwith other 15 accused persons are identified as members of the unlawful assembly. Whether the assembly was unlawful, whether there was a conspiracy, as alleged, are the questions which require determination during the course of trial. The applicant is behind bars for more than a month. The investigation papers nowhere depict his specific role in commission of offence. Although it is submitted on behalf of the prosecution that the applicant was main instigator, the investigation papers tendered before this court are bereft to support such submission.

6. The learned APP contends that there are 22 previous offences registered against the applicant. He is man of criminal mentality and his release may give recurrence to similar incidents. It is trite that criminal antecedents may be one of the consideration while entertaining prayer for grant of bail. However, it cannot operate as absolute bar in exercise of discretion by the Court. The court will have to look into allegations levelled

against the applicant and the material available against him in a particular offence while considering the plea for grant of bail.

7. By applying aforesaid parameters, and after considering the contents of the FIR alongwith investigation material, it is difficult to segregate the role of the applicant from other accused persons. The investigation papers merely establish that applicant was present on the spot. However, in absence of specific role, he could not be given different treatment than the other accused persons. It is not in dispute that the co-accused persons who are arrested in pursuance of the aforesaid crime are already enlarged on bail. Mr. Sapkal, learned senior counsel, appearing for the applicant points out that the learned Session Judge, refused bail merely for criminal antecedents of the applicant. Without noting that there is nothing on record to bring complicity of the applicant in commission of present crime. Taking into account aforesaid circumstances, there is no reason to continue further detention of the applicant. However, his release shall be subject to certain conditions.

: O R D E R :

- (I) The application is allowed.
- (ii) Applicant – Rushikesh Kailas Bedre, be released on bail on furnishing P.B. and S.B. of Rs. 1,00,000/-(rupees one Lakh) with one solvent surety of the like amount, Crime No. 369 of 2023 dated 2.9.2023 registered with Gondi Police Station, Taluka Ambad, District Jalna, for the offences punishable under Sections 307, 333, 332, 353, 427, 435, 120-B, 143, 147, 148, 149 of IPC read with Section 135 of the Bombay Police Act, and Section 3 of Prevention of Damage to Public Property Act, 1984 on the following conditions :-
 - (a) He shall not tamper with the prosecution witnesses.
 - (b) He shall attend the concerned police station as and when specifically noticed by giving advance notice of atleast 24 hours.
 - (c) He shall not enter Beed and Jalna Districts for the period of three months from the date of his release except on requisition by police as per clause (b) of this order.

- (d) In case of filing of charge sheet, the applicant shall attend the trial court on each and every specified dates.
- (iii) Needless to mention here that the observations made hereinabove are based on prima facie consideration of the material on record and made only for the purpose of disposal of this application.
- (iv) The application stands disposed of.

[S.G. CHAPALGAONKAR]
JUDGE

grt/-