



IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

942 BAIL APPLICATION NO. 2227 OF 2023

MANOJ MANIKLAL JAISWAL

....Applicant

VERSUS

THE STATE OF MAHARASHTRA

.....Respondent

.....

Advocate for Applicant : Mr. S.S.Shinde

APP for Respondents: Mr. S.G.Gaikwad

.....

CORAM : S.G. CHAPALGAONKAR, J.

DATE : 19.12.2023.

PER COURT :

1. The applicant seeks regular bail in connection with Crime No. 442 of 2023 registered with Chilkalthana police station, District Aurangabad for the offences punishable under sections 307, 309, 324, 326 of the Indian Penal Code.

2. The investigation was set in motion on the basis of the information given by Ganesh Rajendra Jaiswal, who alleges that his sister Nisha Manoj Jaiswal is married with applicant Manoj Maniklal Jaiswal. His sister Nisha is residing at her

maternal home because of ill treatment by her husband. Her son Shivay is admitted to the school at Alok Nagar. It is further alleged that on 16.10.2023 the applicant/accused intercepted school van and attempted to snatch the custody of Shivay. The driver of van called informant and his sister Nisha, to the spot thereafter the applicant abused them and left the place. It is further alleged that at about 2.30 p.m. the applicant entered into their house. The applicant banged into kitchen, where Nisha was cooking. Suddenly applicant/accused took a sickle and raised an assault on Nisha. She sustained severe injuries. The accused/applicant further raised assault inflicted on the informant and his father, using a weapon in his hand causing injuries to them. On the basis of aforesaid information a crime No. 442 of 2023 came to be registered with police station Chikalthana for aforesaid offences. The applicant has been arrested on 17.10.2023. Since then he is behind the bar. His bail application has been rejected by the Court of Sessions vide order dated 04.12.2023.

3. Mr. Shinde, learned Advocate appearing for the applicant submits that it is a case of matrimonial dispute

between the applicant and his wife. The applicant has been falsely implicated in this case on account of aforesaid reason. He would submit that the applicant is behind the bar for more than two months. The investigation in the matter is complete. In fact the applicant himself had suffered injuries and was hospitalized from where he has been arrested. He would therefore, submits that the further detention of the applicant is not necessary. The offence as alleged would not attract against in facts of case.

4. The learned APP strongly opposes the prayer for grant of bail. He would point out that the first informant, his sister Nisha and father, all three have suffered injuries on account of assault of the applicant. He would further points out that Nisha was indoor patient at Government Hospital, Aurangabad for 7 days, even the first informant and his father have suffered injuries. As such the allegations in the FIR are supported by the medical evidence. He would therefore, urge that prima-facie there is sufficient material to make out offence against the applicant.

5. Having considered the submissions and documents, it is apparent that there is a matrimonial dispute between the applicant and his wife Nisha, who is presently residing at her maternal home along with her brother and father. Her son appears to have been admitted in a school at Aurangabad. The contentions of FIR makes specific allegations that the applicant raised assault using sickle and caused injuries to the first informant, his sister Nisha and father. On perusal of medical papers it is observed that the injuries suffered by them are simple in nature, attributable to the hard and blunt object. Evidently a sharp edged weapon is not used in the commission of the offence.

6. The record of the investigation shows that the applicant was also seriously injured and suffered 3 injuries. There is no explanation for the same in investigation paper. The survey of investigation papers depicts that intention to kill cannot be gathered. Possibility the scuffle between the applicant, his wife Nisha and her family members cannot be ruled out.

7. The learned APP points out that previously an offence is registered against the applicant punishable under Section 326 of the IPC. However, fairly admits that it is unconcerned with dispute of the applicant and his wife Nisha. The applicant is behind the bar for 2 months. Investigation is substantially progressed. Formality of filing charge-sheet is remained. In that view of the matter, further detention of the applicant would not be necessary. A case is made out for grant of bail. Hence the following order :

ORDER

- i. Bail Application is hereby allowed.
- ii. The applicant – Manoj Maniklal Jaiswal, be released on bail in connection with Crime No. 442 of 2023 registered with Chilkalthana police station, District Auangabad for the offences punishable under sections 307, 309, 324, 326 of the Indian Penal Code. 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 Sunday between 10.00 a.m.

to 2.00 p.m. till filing of the charge sheet.

c] The applicant shall not indulge in any criminal activities.

d] The applicant shall not make an attempt to establish contact with the victim or enter Vijayant Nagar in Devlai parisar Tq. & District Chattripati Sambhaji Nagar.

iii. Bail application is accordingly disposed off.

(S.G. CHAPALGAONKAR)
JUDGE

mahajansb/