

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

**932 BAIL APPLICATION NO. 2132 OF 2023
WITH
APPLN/4451/2023**

**SHAILESH @ SONU PRAKASH MALI
VERSUS
THE STATE OF MAHARASHTRA**

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Advocate for the applicant : Mr. N.L.Chaudhari

APP for respondent/State : Mr.A.S.Shinde

Advocate for applicant : Mr. N.N.Desle h/f Mr. Patil Avi Vilas (in
BA/4451/23)

Advocate for Respondent No. 1 : Mr. N.L. Chaudhari (in
BA/4451/23)

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**CORAM : S.G. CHAPALGAONKAR, J.
DATE : 15.12.2023.**

PER COURT :

1. The applicant seeks regular bail in connection with Crime No.351 of 2023 registered with Dhule City police station, Dhule, District Dhule for the offences punishable under sections 307, 326, 141, 143, 147, 148, 149 of the Indian Penal Code.

2. The investigation was set in motion, on the basis of the information given by Tushar Navle, who alleges that he owns a hotel. He has a plot in Dhule city, in the vicinity of Station Road. He had some dispute about the said plot. The dispute

was amicably settled and the informant had put shutter over the part of the plot in his possession. It is alleged that on 6.09.2023 at about 9.30 p.m., he was proceeding from the Station Road Square. He noticed that the shutter of his plot was opened. The present applicant/Sonu, his brother and their employees were present on the spot. When the informant asked applicant/Sonu Mali as to why his shutter is broke opened. Applicant called Akash Mali to the spot. There was altercation between informant and the applicant and others. Suddenly applicant/accused/Sonu inflicted injury of chopper on his head. Informant fell on ground, while he was lying the other accused persons have also raised assault on him. When his cousin and residents of colony pacified the quarrel, the applicant/accused along with other accused persons fled away. Based on the aforesaid information, crime No. 351 of 2023 came to be registered against all 12 accused persons including the applicant. The applicant came to be arrested on 07.09.2023 and since then he is behind the bar. The investigation progressed. On conclusion of the investigation, charge-sheet came to be filed. The prayer of the applicant for grant of bail has been rejected by the Court of Sessions vide order dated

20.11.2023.

3. Mr. N.L. Chaudhari, learned Advocate appearing for the applicant would submit that the applicant has been falsely implicated on account of dispute over a property. He would submit that in fact the first informant and other co-accused had raised attack on the applicant. The applicant has suffered injury of sword. The incident is reported to the police. Accordingly an offence is registered against the first informant. Mr. Chaudhari, learned Advocate would make an endeavour to point out that the first informant was admitted in private hospital. The injury certificates are manipulated and the applicant and his family members are falsely implicated. He therefore, submits that the investigation in the matter is completed and the charge-sheet is filed. There are no criminal antecedents at the discredit of the applicant, hence the applicant be released on bail.

4. The learned APP, so also the learned Advocate appearing for the first informant vehemently oppose the application. They invited the attention of this Court to the injuries suffered by the first informant, as well as the recovery of

the weapon from the applicant, to contend that a deadly weapon was used and serious injuries are caused on the vital parts of the applicant. He was hospitalized for about 2 months. Apart from the first informant, two other witnesses have also suffered serious injuries, on account of attack made by the applicant. The release of the applicant would be a threat for smooth prosecution. As such, they opposes the prayer for grant of bail.

5. The F.I.R. clearly narrates the role of the applicant, that he was holding a chopper in his hand and inflicted injuries on the first informant. The statement of witness Tushar Navale and Shubham Shelar also corroborates the version in the F.I.R. The discharge card of the first informant shows multiple injuries on frontal parietal area. The applicant has also lodged report in respect of same incident, with allegations that the first informant inflicted injury of sword on him. Apparently, it is the case of free fight between two groups on account of dispute of the land. The investigation in the matter is complete. The charge-sheet is filed. The trial would take its own course. The learned A.P.P. confirms that there are no criminal antecedents to the discredit of the applicant. Whether the offence under Section 307 of the I.P.C. would attract in the given facts of the

case would be the matter to be decided during trial, however, on prima-facie consideration of facts, particularly cause of inception of the quarrel and the civil dispute between the parties, an intention to kill does not appear. The weapons of offence are the instruments which are generally used for chopping vegetables. Admittedly the applicant was running a business of 'Pav Bhaji' Center. The weapons of offence are mainly related to such business. In that view of the matter, the further detention of the applicant would not necessary, however, to protect the interest of the prosecution, some stringent conditions are required to be imposed while releasing the accused/applicant on bail. Hence the following order :

ORDER

- i. Bail Application is hereby allowed.
- ii. The applicant – Shailesh @ Sonu Prakash Mali be released on bail in connection with Crime No.351 of 2023, registered with Dhule City police station, Dhule, District Dhule, for the offences punishable under sections 307, 326, 141, 143, 147, 148, 191 of the Indian Penal Code, on his furnishing P.B. & S.B. of Rs.1,00,000/- (Rs. One Lakh), 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 Monday between 10.00 a.m. to 2.00 p.m., till filing of the charge sheet.
 - c] The applicant shall not enter Dhule Town, till conclusion of the trial.
- iii. Bail application is accordingly disposed off.
- iv) Application for assist to learned APP is allowed and disposed off.

(S.G. CHAPALGAONKAR)
JUDGE

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