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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

BAIL APPLICATION NO.176 OF 2023

Ajay @ Sanlya Sudam Londhe	... Applicant
V/s.	
The State of Maharashtra	... Respondent

Mr. Ranjeet M. Pawar, for the Applicant.

Mr. Pandurang Gaikwad, APP for State – Respondent.

CORAM : AMIT BORKAR, J.

DATED : JUNE 5, 2023

P.C.:

1. This is an Application filed under Section 439 of the Code of Criminal Procedure, 1973, (for short 'Cr.P.C.') for bail in connection with Sessions Case No.245 of 2022 pending before the Sessions Judge being arising from First Information Report (for short 'F.I.R.') No. 377 of 2022 for offences punishable under Sections 307, 504, 506 read with 34 of the Indian Penal Code (for short 'IPC').

2. The prosecution case in short is as under:

One Deepak Bhise lodged an F.I.R. on 7th July, 2022 alleging that on the said day, he was at Katewadi for the religious function and was talking with his friend Ajay Bhise and Sagar Bhise. At that time accused No.1 Akshay abused the complainant and assaulted him on his head by iron sickle. It is further alleged that on receiving injury blood started oozing and he fall down. It is

alleged that the present Applicant picked up pointed stone and assaulted on complainant's head resulting in injured becoming unconscious. Therefore, on the same day F.I.R. came to be registered against the Applicant and the accused No.1.

3. The investigating agency carried out investigation and filed charge sheet after completion of investigation against the Applicant and another accused. The Applicant, therefore, filed an Application under Section 439 Cr.P.C. before the Sessions Judge which came to be rejected. By the impugned order dated 17th November, 2022, the Applicant filed the present Application under Section 439 of Cr. P.C.

4. The learned Advocate for the Applicant invited my attention to the allegations in the F.I.R., statements of the witnesses and material on record in the form of charge. He invited my attention to the injury certificate indicating that the informant suffered one injury on head which was result of assault by iron sickle by accused No.1. Therefore, according to him except statement of interested witnesses there is no other material on record to show involvement of the Applicant in the offence alleged against him.

5. Per contra, learned APP invited my attention to the statement of witnesses recorded by the investigating agency attributes active role of the Applicant. He, therefore, submitted that considering the gravity and seriousness of offences, there is sufficient material on record to indicate active role played by the Applicant.

6. I have considered the submissions of the parties. On careful

scrutiny of the charge sheet, statement of witnesses and injury certificate produced on record and on perusal of injury certificate issued by the Baramati hospital dated 7th July, 2022, it shows that the informant suffered at Fronto partied Region admeasuring 8 x 2 x 2 cm. The age of injury is one hour. Though witnesses attributed specific role to the Applicant of assaulting the informant by stone, in the absence of corresponding injury on the head as is clear from medico legal certificate, prima facie, the Applicant deserves to be released on bail. The Applicant has been arrested on 30th July, 2022. The investigation is completed and charge sheet has been filed. Based on medico legal certificate dated 7th July, 2022, the Applicant has made out the case for his release under Section 439 of Cr.P.C. Hence, pass the following order:

ORDER

- i. The Application is allowed.
- ii. The respondent – Yerwada Central Prison at Pune is directed to be released Applicant Ajay @ Sanlya Sudam Londhe on bail on executing PR bond in the sum of Rs.50,000/- (Rs. Fifty Thousand only) with one or two sureties to the like amount.
- iii. The Applicant shall remain present before the trial Court on each date unless exempted by the Sessions Court.
- iv. The Applicant shall furnish details of his residence and cell-phone number to the investigating officer and shall communicate changes of address, if any, to the

investigating officer within two (2) weeks from changes of such address.

v. The Applicant shall not tamper with the evidence of the prosecution and shall not influence the witnesses.

7. The Bail Application stands disposed of.

(AMIT BORKAR, J.)