



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

BAIL APPLICATION NO.23 OF 2024

**RAVI S/O APPASAHEB SHETE
VERSUS
THE STATE OF MAHARASHTRA.**

...
Mrs. Rashmi Kulkarni advocate for the applicant.
Mr. V.M. Jaware, APP for the Respondent
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CORAM : S. G. CHAPALGAONKAR, J.

Reserved on : 23rd January, 2024

Decidedon : 30th January, 2024

ORDER :-

1. The applicant seeks regular bail in connection with Crime No.88 of 2020 registered with Kopargaon police station, District Ahmednagar for the offences punishable under sections 302, 452, 143, 147, 148, 149, 120-B, 75 of IPC and sections 3/25, 4/25, 7/25 and 27 of the Arms Act. In the alternative, the applicant seeks temporary bail looking to his medical condition.

2. Investigation has been set in motion on the basis of the information given by one Mr. Shamrao Bhimrao Gire, wherein it is alleged that on 15.3.2020 while informant and his son Suresh Gire were at home, accused Ravi Shete alongwith his companion Vijay Kharde rushed to their home. They were holding fire arms/pistols. The applicant-accused Ravi Shete fired a bullet of pistol on Suresh, who suffered bleeding injury.

Thereafter, Suresh ran out of the house. Accused and his companions followed him towards field, where accused again fired bullets towards Suresh. Other accused persons raised assault by scythe on his person and then left the field. Suresh succumbed to the injuries suffered in the attack by the accused persons. Accordingly, crime no.88 of 2020 has been registered with police station against the applicant and other accused persons. The applicant came to be arrested on 21.3.2020. The investigation is complete. Charge sheet is filed.

3. Mrs. Rashmi Kulkarni, learned advocate appearing for the applicant would submit that applicant has been falsely implicated in the aforesaid crime. She would submit that although the applicant has been arrested and is behind bar for more than 3 and half years, till this date trial is not commenced. Further, the applicant is suffering from brain tumor and his medical condition has been deteriorated. Alternatively, she would submit that the applicant may be released on temporary bail looking to his medical condition. In support of her contentions, she relies upon the order passed by the Supreme Court of India in case of **Dr. P. Varavara Rao Vs. National Investigation Agency and another in Criminal Appeal No.1206 of 2022.**

4. Learned A.P.P. strongly opposes the prayer for grant of bail stating that conduct of the applicant and allegations in the FIR does not warrant exercise of discretion of grant of bail. He would point out that best possible medical

aid is provided to the applicant and there are no reasons to enlarge him on bail.

5. Having considered the submissions advanced, it can be gathered that FIR clearly indicates motive of offence and role played by the applicant in commission of offence. Pertinently, involvement of the applicant is during period when he was absconded for more than eight years in the previous offence registered against him for commission of murder. The contents of the FIR clearly shows that the applicant was holding pistol in his hand and fired bullets towards the deceased. Other accused persons raised attack by scythe and ensured death of Suresh. FIR is lodged by an eye witness of the incident, elaborating role played by the applicant in commission of offence. There is recovery of incriminating pistol on the basis of discovery statement of applicant under section 27 of the Evidence Act. There is recovery of clothes used at the time of commission of offence. The applicant and other accused persons are seen in the CCTV footage in proximity of the commission of offence and 8 eye witnesses identified the applicant and others to be the assailants during test identification parade. Internal communication between the applicant and other accused is also surfaced during course of the investigation. If the aforesaid material is considered, prima facie, strong case appears to have been made out against the applicant. Therefore, on consideration of merits of the case, there is no reason to entertain the prayer for grant of bail.

6. Second contention raised on behalf of the applicant that he is behind bar for more than three and half years and trial is at the nascent stage. Therefore, indefinite incarceration of the applicant cannot be permitted. This Court finds that although the speedy trial is a constitutional right of the accused and indefinite incarceration cannot be approved, that itself cannot be the ground to release the applicant on bail. The Court while considering prayer for grant of bail will have to be equally ensure availability of the applicant for trial so also other implications from release of the applicant. In the present case, a strong prima facie case has been made out against the applicant. There is one more similar offence registered against him in which he was absconding for the period of eight years. This is second offence where accused used fire arms and caused day light murder. Prima facie, the applicant appears to be hardened criminal. His release is likely to hamper smooth trial. Therefore, on this count also, this Court is not inclined to entertain the prayer for grant of bail.

7. Third contention raised on behalf of the applicant that considering his medical condition, he deserves to be released on bail. In response to aforesaid submissions, learned APP points out details of medical aid given to the accused. Apparently, applicant has been given best possible medical treatment. Initially, he was treated at J.J. Medical College and Hospital and thereafter a Super Speciality Hospital of International Repute, at Bombay. No grounds are made out to indicate that any better medical aid can be provided to the

applicant with any private medical institution and for that purpose temporary bail can be granted to the applicant. In absence of such material and considering nature of allegations against the applicant, even observations of the Supreme Court in case of Dr. P. Varavara Rao (supra) would not be of any assistance. Hence, no case is made out for grant of bail. Hence, the following order.

O R D E R

The application stands rejected.

(S.G. CHAPALGAONKAR)
JUDGE

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