



IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.

1014 BAIL APPLICATION NO. 113 OF 2024

1. Devidas s/o Fakirrao Ghitre.
2. Eknath s/o Fakirrao Ghitre.

... Applicants

Versus

The State of Maharashtra.

... Respondent

...
Advocate for Applicants : Mr. Nilesh S. Ghanekar.
APP for Respondent/State : Mr. Mukesh K. Goyanka.
Advocate to assist PP : Mr. M. R. Wagh.

...

CORAM : **SANJAY A. DESHMUKH, J.**

DATE : 21st February, 2024.

P.C.:

1 Heard.

2 This is an application, under Section 439 of the Code of Criminal Procedure, 1973, for grant of regular bail in connection with Crime No.193 of 2023, registered with Shillegaon Police Station, District Aurangabad, for the offences punishable under Sections 302, 307, 326, 324, 323, 143, 147, 148, 149, 504 and 506 of the the Indian Penal Code.

3 It is alleged by the informant that on 26th June, 2023 the informant and his family members were constructing boundary polls in

the field in presence of cadastral surveyor of the department of Government. That time, the applicants and other accused went there. They uprooted the polls and assaulted Bhikchand and other eye-witnesses. Bhikchand sustained serious injuries and he succumbed to the injuries on 5th July, 2023. Other witnesses also sustained injuries. It is alleged that the applicants also assaulted the injured witnesses and applicant No.1 Devidas assaulted Bhikchand by stone. The report was lodged immediately after the incident.

4 The learned counsel for applicants submitted that other co-accused (Gangadhar Fakirrao Ghitre) having similar role is released on bail by this Court vide order dated 21st December, 2023 passed in Bail Application No.2150 of 2023. He pointed out that the role of Gangadhar Ghitre is similar to that of this applicant. The applicant has roots in the society. He will not flee away from the trial. The investigation is over and charge-sheet is filed. It is lastly prayed to allow the application.

5 The learned APP for the State and the learned counsel assisting the prosecution strongly opposed the application. The learned counsel assisting the prosecution submitted that Section 149 of the IPC is invoked against these applicants and their common intention to commit murder of Bhikchand is *prima-facie* established.

There is video recording of the incident and the applicants are appearing in that video recording while having stones and assaulting the witnesses. It is lastly prayed to reject the application.

6 Perused the charge-sheet, particularly, the report and the evidence of two witnesses i.e. Vajir Akbar and Afsarabee. In the statement of Afsarabee, she has stated that applicant Devidas assaulted Bhikchand and informant Parmeshwar. In her statement, the role of applicant Eknath is not specified. In the supplementary statement of informant Parmeshwar, it is stated that applicant Eknath assaulted him.

7 This Court while granting bail to co-accused Gangadhar Ghitre, in last part of paragraph 6 observed that, the applicant and others are commonly attributed role in the assault on Bhikchand without specification. Medical certificate of Parmeshwar shows simple injury. Considering the postmortem notes, Bhikchand had sustained many injuries over frontal parietal temporal region, to which he succumbed later on. It is lastly concluded that it is difficult to connect the applicant with any such injuries sustained to the deceased Bhikchand.

8 Considering all these aspects, this Court is of the view that the applicants are entitled for bail on the ground of parity. The

applicants are behind the bars for about 7 months. Charge-sheet is filed. The applicants have no criminal antecedents. They will not flee away from the trial. The trial will take long period. Considering all these aspects, the application deserves to be allowed on certain conditions. Hence, the following order:-

ORDER

- I. The application is allowed.
- II. The applicants in connection with Crime No.193 of 2023, registered with Shillegaon Police Station, District Aurangabad, for the offences punishable under Sections 302, 307, 326, 324, 323, 143, 147, 148, 149, 504 and 506 of the the Indian Penal Code, be released on bail on furnishing personal bond of Rs.50,000/- each with surety of the like amount by each of them on following conditions:-
 - a) The applicants shall not pressurize the prosecution witnesses, in any manner.
 - b) The applicants shall not tamper with the prosecution evidence, in any manner.
 - c) The applicants shall not indulge in similar activities again.
 - d) The applicants shall not enter into village Raipur, Taluka Gangapur, District Aurangabad, for further six months.
 - e) If the applicants commit breach of any of the above conditions, the investigating officer / concerned police

station / prosecution is at liberty to file application for cancellation of bail of these applicants before the Trial Court. If such an application is moved, the Trial Court is at liberty to decide the said application on merits without reference to this Court.

[SANJAY A. DESHMUKH, J.]

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