



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

906 BAIL APPLICATION NO. 261 OF 2024

PARMESHWAR BALAJI SOLUNKE
VERSUS
THE STATE OF MAHARASHTRA

...
Advocate for Applicant : Mr. Narwade Narayan B.
APP for Respondent/State : Mr. Mukesh K. Goyanka
Advocate for assisting to P.P.: Mr. P. P. More

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CORAM : SANJAY A. DESHMUKH, J.
DATED : 2nd APRIL, 2024.

PER COURT :-

1. The applicant is seeking bail under section 439 of the Criminal Procedure Code, 1973 (for short, "Cr.P.C."). The applicant has been arrested in connection with crime No.0312 of 2022 registered with Nilanga Police Station, Tq. Nilanga, Dist. Latur, for the offences punishable under sections 302, 307, 279, 337, 143, 147, 148, 149, 504, 506 of the Indian Penal Code and under section 135 of the Maharashtra Police Act, 1951.

2. It is averred in the report that the applicant and other accused assaulted Karan Bhimrao Solunke and Deepak Solunke. Karan died, however, Deepak was admitted in the hospital. Initially, they gave dash to the motorcycle of Karan, upon which Deepak Solunke was pillion rider. Thereafter, the applicants and other co-accused assaulted them by sticks, iron rod and stones. Report was immediately lodged after the incident. Earlier to that there was

quarrel between them, therefore, crime no.52 of 2013 was registered wherein this applicant was accused.

3. The learned advocate for the applicant submitted that the applicant is praying for bail on the ground of parity, for that purpose, he is relying upon the order passed in Bail Application no.92 of 2024 dated 30th January, 2024. The learned advocate for the applicant submitted that the CDR report shows that this applicant Parmeshwar Solunke was at village Yelnoor along with other accused and spot of incident is Nilanga Shivar, Yelnoor.

4. The learned advocate for the applicant submitted that the applicant is falsely implicated in the crime. Considering his role that he assaulted Karan and Deepak by sticks, now the custody of the applicant is not necessary. He prayed to allow the application.

5. The learned APP for the respondent-State strongly opposed the application. The learned advocate for assisting to the prosecution pointed out the copy of the report in C.R. No.52 of 2013 dated 05.11.2013 in which it is mentioned that this applicant along with co-accused assaulted Karan by an axe.

6. The learned advocate for assisting to the prosecution pointed out the statements of the witnesses and letter sent by the Investigating officer to the doctor about the consciousness of Deepak, who was admitted in the hospital for near about one month and 15 days. The learned advocate for assisting to the prosecution

pointed out that the postmortem report shows 37 injuries sustained to Karan. He succumbed to those injuries. He submitted that bail of one of the co-accused was refused by this Court by order dated 18th October, 2023 in Bail Application No.1595 of 2023. Considering the role of this applicant, the learned advocate for assisting to the prosecution submitted that the applicant is involved in serious crime. There is strong motive and evidence of eye witnesses. He therefore submitted to reject the application.

7. Perused the charge-sheet, particularly the report and statements of the witnesses. Postmortem report shows 52 injuries sustained to Karan, who died in that incident. No doubt, the injured Deepak has also sustained the injuries, however, at the same time, the call details/CDR shows that this applicant along with co-accused Ajit, Amar were at village Yelnoor. At the relevant time of the incident, tower location of Parmeshwar, Ajit and Amar shows that they were not on the spot of incident i.e. Nilanga Shivar. The said information was called by the Investigating Officer. There are allegations that Parmeshwar assaulted deceased Karan and Deepak by sticks. The evidence of tower location is independent evidence and that will prevail over the evidence of eye witnesses. Considering this aspect and the peculiar set of facts and circumstances of the case and the fact that the applicant has roots in the society, he will not flee away from the trial, trial will take long period, the application deserves to be

allowed on the principle that the bail is rule and jail is exception. For the reasons stated above, the arguments of the learned APP for the State and the learned advocate for assisting to the prosecution is not acceptable. The application therefore deserves to be allowed on certain stringent conditions. Hence, the following order.

O R D E R

- I. Application is allowed.
- II. The applicant in connection with crime No.0312 of 2022 registered with Nilanga Police Station, Tq. Nilanga, Dist. Latur, for the offences punishable under sections 302, 307, 279, 337, 143, 147, 148, 149, 504, 506 of the Indian Penal Code and under section 135 of the Maharashtra Police Act, 1951, be released on bail on furnishing personal bond of Rs.50,000/- with one surety of the like amount on following conditions:-
 - a) The applicant shall not pressurize the prosecution witnesses and shall not tamper with the prosecution evidence in any manner.
 - b) The applicant shall not enter in village Yelnoor, Tq.Nilanga, Dist. Latur, till the conclusion of trial.
- III. If any breach of the above conditions is noticed by the trial Court, the trial Court is at liberty to cancel the bail granted to this applicant without further reference to this Court.

(SANJAY A. DESHMUKH, J.)