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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

906 BAIL APPLICATION NO. 309 OF 2024

SHAHRUKH RASHID PATHAN

....Applicant

VERSUS

THE STATE OF MAHARASHTRA

.....Respondent

Mr. R. V. Gore, Advocate for the applicant

Mrs. Pratibha J. Bharad, APP for the respondents/State

CORAM : SANJAY A. DESHMUKH, J.

DATE : 03rd APRIL, 2024

P. C.

1. This is an application for granting regular bail under Section 439 of the Code of Criminal Procedure Code. Accused is arrested in Crime No. 1023/2023 registered at Pathardi Police Station, Ahmednagar for the offences punishable under Sections 307, 326, 324, 323, 427, 143, 147, 148, 149, 504, 506 of the Indian Penal Code.

2. It is averred in the report that the applicant and other accused came to house of informant at about 11.30 pm on

29.09.2023. There was old dispute about purchasing of land. The applicant came there with iron rod and wooden rod. They assaulted the informant and his relatives. The applicant Shahrukh alongwith co-accused Salman and Rashid assaulted on the left leg and back of the informant with iron rods. Co-accused Rashid was saying that informant should not be kept alive. Thus, the applicant and other accused alleged to have attempted to commit murder of the informant and witnesses.

3. Learned advocate for the applicant submits that investigation is over. Charge-sheet is submitted. The applicant has roots in the society. The trial would take long period. Considering the nature of the crime the applicant be released on bail.

4. The learned APP strongly opposed the application and submits that the applicant alongwith other accused have actually participated in the crime and assaulted the informant and witnesses by iron rods and wooden rods. Possibility of

happening of such incidence cannot be ruled out. The applicant will certainly pressurize the prosecution witnesses. Learned APP lastly prays to reject the application.

5. Statements of witnesses were pointed out alongwith injury certificates showing injuries sustained to them. Seizure panchanama of weapon i.e. stick and iron rod used for commission of crime is also shown.

6. Perused the charge-sheet particularly report and statements of witnesses as well as injury certificates. The applicant has roots in the society. The trial would take long time. Considering all these aspects, the applicant has made out the case for bail on the principle that bail is rule and jail is exception. Hence, the application deserves to be allowed on certain conditions. Hence, the following order:-

ORDER

a] Bail application is allowed.

b] Applicant in connection with Crime No. 1023/2023 registered at Pathardi Police Station, Ahmednagar for the offences punishable under Sections 307, 326, 324, 323, 427, 143, 147, 148, 149, 504, 506 of the Indian Penal Code be released on bail on furnishing personal bond of Rs.50,000/- [Rupees Fifty Thousand only] with one surety of the like amount on following conditions:-

- i) The applicant shall not tamper with the prosecution evidence and shall not pressurize the prosecution witnesses, in any manner.
- ii) Applicant shall not enter into the entire Damalwadi, Tq. Pathardi, Dist. Ahmednagar except dates fixed for hearing of Sessions Case.
- iii) If any breach is committed by applicant, the prosecution/informant is at liberty to proceed further for

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cancellation of bail before trial court.

iv) The learned trial court is at liberty to decide the application for cancellation of bail on merits without reference to this court.

v) Applicant shall not indulge in such type of criminal activities henceforth.

vi) If applicant is involved in such a nature of crime again, the prosecution /informant is at liberty to pray for cancellation of bail before the trial court.

[SANJAY A. DESHMUKH, J.]

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