



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

99 BAIL APPLICATION NO. 291 OF 2024

1. Lakhan Sanjay Gaikwad
2. Rohan @ Rohit Rajendra Gaikwad
3. Prakash Ramkrushna Gaikwad
4. Rajendra Digambar Gaikwad
5. Bhairoba Tanaji Fukate (Fugate)
6. Sham Prakash Gaikwad

..APPLICANTS

-VERSUS-

The State of Maharashtra

..RESPONDENT

...
Advocate for Applicant : Mr. Patil Kalyan V.
APP for Respondent/State : Mrs.Pratibha J. Bharad
...

WITH
CRIMINAL APPLICATION NO. 846 OF 2024
IN BA/291/2024

PRAN @ KHANDU DYANOBA KALE
VERSUS
LAKHAN SANJAY GAIKWAD AND OTHERS

...
Advocate for Applicant : Mr. Sachin Jaiprakash Salgare
APP for Respondent/State : Mrs.Pratibha J. Bharad
.....

CORAM : SANJAY A. DESHMUKH, J.
DATED : 4th MARCH, 2024.

PER COURT :-

1. For the reasons stated in the Criminal Application No.846 of 2024, the same is allowed in terms of prayer clause "B".

2. So far as Bail Application No. 291 of 2024, the applicants are seeking bail under section 439 of the Criminal Procedure Code, 1973 (for short, "Cr.P.C."). The applicants have been arrested in connection with Crime No.608 of 2023 registered with Omerga Police Station, Dist. Osmanabad, for the offences punishable under sections 307, 326, 452, 323, 504, 506, 143, 147, 148 and 149 of the Indian Penal Code and section 135 of the Maharashtra Police Act.

3. The learned advocate for the applicants seeks leave to withdraw the application to the extent of applicant nos.1, 2 and 4 to 6. Leave granted. The application to their extent is disposed of as withdrawn.

4. It is averred in the report that due to the earlier enmity between the applicant, other co-accused and informant and his relatives quarrel took place on 12.11.2023 at about 8 p.m. It is further averred that the applicant and other co-accused went in the shop of informant and asked him as to why he told his brother Sharad Kale to lodge the report against them. They threatened that they will eliminate him. One of the accused beaten him on his head with sickle. Blood was oozing. Co-accused Lakhan Gaikwad assaulted him on his head by iron rod. Co-accused Rohan assaulted him on his right hand by stick. He sustained fracture injury to his hand. Co-accused Sham Gaikwad assaulted him on his left hand with stick. He sustained fracture injury to his left hand. Co-accused Raju

Gaikwad, Bhairuba Fukate, Prakash Gaikwad assaulted the informant on his both legs. That time, his brother Sharad Kale, Balaji Kale and other people gathered there. Thereafter the applicant and co-accused ran away.

5. The learned advocate for applicant no.3 submits that the applicant is 74 years old and he has been falsely implicated in the said crime. It is highly impossible for this applicant to commit such offence in this age. Due to earlier enmity, he is falsely implicated in the crime. He therefore, prayed to grant bail.

6. The learned APP strongly opposed the application. The learned advocate assisting to the prosecution submitted that the applicant and co-accused are involved in the serious crime punishable under section 307 of the Indian Penal Code. The applicant has also assaulted informant by stick. Role is specific. He lastly submitted to reject the application.

7. Perused the papers of investigation, particularly the report, the statements of witnesses and medico legal certificate showing the injury sustained to the informant. The applicant is 74 years old. He has roots in the society. He has no criminal antecedents. Considering his role and the fact that the trial will take long period, the application deserves to be allowed on certain conditions. Hence, the following order.

O R D E R

- I. Application is allowed.
- II. **Applicant no.3 – Prakash Ramkrushna Gaikwad**, in connection with Crime No.608 of 2023 registered with Omerga Police Station, Dist. Osmanabad, for the offences punishable under sections 307, 326, 452, 323, 504, 506, 143, 147, 148 and 149 of the Indian Penal Code and section 135 of the Maharashtra Police Act, be released on bail on furnishing personal bond of Rs.25,000/- 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.

(SANJAY A. DESHMUKH, J.)

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