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

910 BAIL APPLICATION NO. 378 OF 2024

BHAGWAN GAHENAJI SAKHALE

....Applicant

VERSUS

THE STATE OF MAHARASHTRA

.....Respondents

Mr. S. J. Salunke, Advocate for the applicant

Mr. S. A. Gaikwad, 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. 164/2023 registered at Ajintha Police Station, Dist. Aurangabad for the offences punishable under Sections 302, 323, 504 read with Section 34 of the Indian Penal Code.

2. The informant Rajaram Sakhale averred in the report that on 05-07-2023 he was grazing his animals in his field and

his elder brother Baburao was resting in his field near a Mango tree. At about 02.30 pm another brother Bhagwan alongwith his sons and wife arrived in the agriculture field. Some verbal conversation took place between them. Thereafter, the applicant, his wife and two sons started to assault Baburao. This applicant Bhagwan twisted scrotum of Baburao and thrashed him. Two sons Vishal, Aakash and wife of accused assaulted Baburao by fists and kicks blows. Baburao sustained injuries and died on 07-07-2023 while he was under medical treatment. Thereafter, report was lodged.

3. Learned advocate for the applicant submits that co-accused are released on bail. The applicant has roots in the society. Investigation is over. There was three days delay in lodging the report. No any external injury was found on the person Baburao. He, lastly prayed to allow the application.

4. Learned APP strongly opposed the application and submitted that the applicant is involved in the serious crime of

murder. He was convicted in RCC No. 388/2010 by the learned JMFC, Sillod by the judgment dated 16-11-2019 under Section 324 of the IPC. The applicant has criminal antecedents. Considering the seriousness of the crime, learned APP prays to reject the application.

5. Considering the report, statements of witnesses as well as postmortem report which does not disclosed the external injury, quarrel took place suddenly and there was no such intention to Kill Baburao and considering these aspects and the fact that the applicant has roots in the society, the trial would take long period, the presence of the applicant can be secured for trial, the application, therefore, deserves to be allowed on certain conditions. Hence, the following order:-

ORDER

- a] Bail application is allowed.
- b] Applicant in connection with Crime No. 164/2023 registered at Ajintha Police Station, Dist.

Aurangabad for the offences punishable under Sections 302, 323, 504 read with Section 34 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 Lihakhedi, Tq. Sillod, Dist. Chhatrapati Sambhajinagar 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 cancellation of bail before trial court.
- iv) The learned trial court is at liberty

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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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