



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

915 BAIL APPLICATION NO. 338 OF 2024

1. Balaji @ Balu Tukaram Wankhede
2. Satyawar @ Satish Tukaram Wankhede

..APPLICANTS

-VERSUS-

The State of Maharashtra

..RESPONDENT

Advocate for the applicants : Mr.V.P. Raje
APP for Respondent/State : Mr.Satish A. Gaikwad

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WITH
CRIMINAL APPLICATION NO. 1108 OF 2024
IN BA/338/2024

RAJKUMAR CHANDRAKANT GAWANDE

VERSUS

BALAJI @ BALU TUKARAM WANKHEDE AND OTHERS

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Advocate for Applicant : Mr. Suryawanshi Surendra V.
APP for respondent/State : Mr. Satish A. Gaikwad
Advocate for respondent nos.1 and 2 : Mr.V.P. Raje

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CORAM : SANJAY A. DESHMUKH, J.
DATED : 15th MARCH, 2024.

PER COURT :-

1. Criminal Application No.1108 of 2024 is filed for assisting to the prosecution. For the reasons stated in the application, the application is allowed.
2. 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.0311 of 2023 registered at Goregaon Police Station, Dist. Hingoli, for the offences under sections 307, 326, 504, 506 read with section 34 of the Indian Penal Code.

3. It is averred in the report that informant Rajkumar Gavande, resident of Kanergaon Naka was proceeding by the motorcycle along with his cousin Gajanan Vishnu Gavande on 31.10.2023 at about 5.15 p.m. His friend Harish Gavande was also proceeding on the motorcycle towards Kandkheda. When they reached near Wankhede Wine shop, the applicants and other co-accused stopped them. They started to assault them by saying that why they have compromised earlier matter. Applicant no.1 – Balaji assaulted by an axe on the head of Gajanan Gavande. He sustained serious injury to his head. Applicant no.2 – Satyawar assaulted by an iron rod to Gajanan on his left waist and hand and caused serious injuries to him. Applicant no.2 – Satyawar assaulted Satish Gavande by sickle on his head and have caused grievous injuries. Other co-accused Sanket, who is released on bail also assaulted and caused injuries by iron pipe to the informant. Applicant Balaji then tried to run Bolero Car on the person of Gajanan. He tried to run away, however, he sustained injuries to his left waist and left hand. The informant and his brother Harish made hue and cry for help, at that time one Pankaj and Ganesh rescued them. That time,

the applicants abused them and threatened to kill them. Informant and his brother was taken to hospital of Dr.Jadhav. Then they were taken to Government Hospital, Hingoli. Relatives then took informant and Gajanan to the hospital at Washim. Thereafter the report was lodged.

4. The learned advocate for the applicants submits that these applicants have earlier filed application for granting bail before this Court. When this Court shown disinclination to allow the application, the same was withdrawn. It is observed by the trial Court while refusing to grant bail to the applicants. He submitted that now there is change in the circumstances, the charge-sheet is filed. Custody of the applicants is not required. The applicants have roots in the society. Trial would take long period. He submitted to allow the application.

5. Learned A.P.P. for the respondent-State has strongly opposed the application and submitted that the applicants' overt act is very serious. They used an axe, iron rod and one Bolero Car for attempt to commit murder of informant and Gajanan. The role of these applicants are different than other accused. Therefore, the learned trial Court has not allowed the bail application and also this Court has expressed disinclination. The learned APP further pointed out the injury certificates of the informant and other two witnesses. He submitted that there is direct evidence against these applicants

for attempt to commit the murder of informant and Gajanan. The learned advocate for assisting to the prosecution submitted that the applicants are involved in serious crime. They have assaulted informant and Gajanan, who were helpless and brutally tried to commit murder of them. He pointed out the nature of injury and statements of the witnesses. He further submitted that earlier application was withdrawn by the applicants. Considering the serious role of the applicants, it is lastly prayed to reject the application.

6. Perused the charge-sheet and more particularly the report and the statements of the witnesses. No doubt the incident took place in the day light and the applicants have brutally assaulted the informant and Gajanan and the weapons are seized at the instance of Balaji. However, the applicants have roots in the society, trial will take long period, the custody of the applicants is not required and considering the principle that the bail is rule and jail is exception, the application of the applicants for bail can be allowed on the ground of change in the circumstances that the charge-sheet is filed, on certain stringent conditions. Hence, the following order.

O R D E R

- I. Application is allowed.
- II. The applicants in connection with crime No.0311 of 2023 registered at Goregaon Police Station, Dist. Hingoli for the offences under sections 307, 326, 504, 506 read with section

34 of the Indian Penal Code be released on bail on furnishing personal bond of Rs.50,000/- each with one surety of the like amount by each of the applicants on following conditions:-

- a) The applicants shall not pressurize the prosecution witnesses and tamper with the prosecution evidence in any manner.
- b) The applicants shall not enter only into the village Kanergaon Naka, Tq. & Dist. Hingoli and its topographical area till the conclusion of the trial.

III. If breach of any of the above conditions is committed by the applicants, the trial Court is at liberty to proceed further to cancel the bail of the applicants without reference to this Court.

(SANJAY A. DESHMUKH, J.)

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