



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

925 BAIL APPLICATION NO. 464 OF 2024

SULTAN BIN ALI BIN HAWAIL
VERSUS
THE STATE OF MAHARASHTRA

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Advocate for Applicant : Mr. Ghate Sagar Somnath a/w Ms.
Dipalii V. Jogdand.

APP for Respondent-State : Mrs. D. S. Jape.

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CORAM : S. G. MEHARE, J.
DATE : 11.06.2024

PER COURT :-

1. Heard the learned counsel for the applicant and the learned APP for the respondent-State.
2. The applicant seeks bail in Crime No.28 of 2022, registered with CIDCO Police Station, District Aurangabad, for the offences punishable under Section 302, 143, 147, 148, 149, 120-B and 201 of the IPC.
3. Learned counsel for the applicant submits that the applicant has been falsely implicated in the present crime. His name has been falsely recorded in the FIR. However, a general statement of assault with knife has been made. The so called knife has been recovered under Section 27 of the Indian Evidence Act. Since last two years, the prosecution failed to

produce the C.A. reports. There were two crimes registered against him. In one crime, he has been acquitted and in another crime, he has no concern with crime. He is languishing in jail since more than two years. He is 62 years old suffering from mouth cancer. Therefore, he may be granted bail.

4. Learned APP has strongly opposed the application contending that there is a direct evidence against the applicant. The witnesses specifically state about assault by the applicant and other co-accused. The offence is serious. The deceased was mercilessly killed. The recovery of the weapon has been done from the applicant and it is the corroborative evidence to make the prosecution case strong. He is suffering from mouth cancer since long. The applicant does not deserve bail.

5. Perused the papers. In FIR, the specific allegations have been levelled against one assailant and a general statement has been made about the assault by this applicant. Recovery of the weapon under Section 27 of the Indian Evidence Act is a corroborative piece of evidence. His statement under Section 27 of the Indian Evidence Act is inadmissible. There are circumstances to believe that further detention of the applicant is not essential. He is suffering from mouth cancer and running 62. In the circumstances, if the bail is granted, there would be

no harm to the prosecution. Therefore, the application deserves to be allowed on certain conditions. Hence, the following order :

ORDER

- (i) Bail Application is allowed.
- (ii) Applicant **SULTAN BIN ALI BIN HAWAIL** be released on bail on furnishing PB. and S.B. of Rs.50,000/- (Rupees Fifty Thousand only) with one solvent surety of like amount, in the above Crime on the following conditions :
 - (a) The applicant shall not tamper with the prosecution witnesses.
 - (b) He shall attend the trial on each and every date.
 - (c) He shall not protract the trial unnecessary. If he would unnecessarily remain absent with a view to protract the trial, the learned Sessions Court may cancel the bail and take him in custody without reference to this Court.

(S. G. MEHARE, J.)

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vmk/-