



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

40 BAIL APPLICATION NO. 401 OF 2024

Shivaji Sakharam Mache

..APPLICANT

-VERSUS-

The State of Maharashtra

..RESPONDENT

...
Advocate for Applicant : Mr.V.D. Salunke h/f Mr.Mayur V. Salunke
APP for Respondent/State : Mrs.Pratibha J. Bharad

...
WITH
CRIMINAL APPLICATION NO. 1161 OF 2024
IN BA/401/2024

AMOL MARUTI MACHE
VERSUS
THE STATE OF MAHARASHTRA

...
Advocate for Applicant : Mr. Sachin Subhash Panale
APP for Respondent/State : Mrs.Pratibha J. Bharad

....
CORAM : SANJAY A. DESHMUKH, J.
DATED : 26th MARCH, 2024.

PER COURT :-

1. Criminal Application no.1161 of 2024 is filed for permission to assist to the prosecution.
2. For the grounds stated in the application, the application is allowed.
3. The applicant in Bail Application No. 401 of 2024 is seeking bail under section 439 of the Criminal Procedure Code, 1973 (for

short, "Cr.P.C."). The applicant has been arrested in connection with crime No.736 of 2023 registered with Police Station, Shrigonda, Dist.Ahmednagar, for the offence punishable under section 302 read with 34 of the Indian Penal Code.

4. Informant averred in the report that the applicant and other accused assaulted father of the informant by stones, fists and kicks blows. He become unconscious. Thereafter, the applicant and other accused took him to the hospital where he succumbed to the injuries.

5. The learned advocate for the applicant submitted that the applicant has roots in the society. He will not flee away from the trial. There is delay caused for lodging the report as well as for recording the statements of the witnesses. Many of the accused are granted facility of pre-arrest bail. Trial will take long period. He lastly submitted to allow the application.

6. The learned APP for the respondent/State and the learned advocate for assisting to the prosecution strongly opposed the application and submitted that there is evidence of eye witnesses to perceive the alleged assault made by the applicant and other co-accused. Statements of the witnesses, who had seen that incident, are recorded which show that the applicant and his son Vedant assaulted father of the informant, who died later on. There is material evidence against the applicant. He is prosecuted for the offence of

committing murder of 65 years old man. It is also pointed out that the Bail Application no.43 of 2024 was filed by son of this applicant and when this Court expressed disinclination to allow the application, it was withdrawn. It is lastly prayed to reject the application.

7. Perused the charge-sheet, particularly the report, statements of the witnesses as well as postmortem report. Postmortem report shows 16 injuries and injury no.16 is "therapeutic injection mark present over right wrist, dorsally". The statements of witnesses perceived that incident are very specific and they are pointing out that they have stated that the applicant and his son and other co-accused assaulted father of the informant by stones, fists and kicks blows. There is prima facie strong evidence against the applicant. There is possibility of pressurizing the prosecution witnesses. Further this Court has already expressed disinclination to allow the application of son of applicant-Vedant Shivaji Mache (Bail Application No.43 of 2024, decided on 30th January, 2024).

8. Considering the rule of judicial discipline as well as facts and circumstances discussed above and also the ratio and guidelines laid down by the Hon'ble Supreme Court in the cases of ***Deepak Yadav Vs. State of Uttar Pradesh and another, (2022) 8 SCC 559*** ***Shahzad Hasan Khan Vs. Ishtiaq Hasan Khan and another, (1987) 2 SCC 684***, the application deserves to be rejected. Hence the following order.

O R D E R

- I. Application is rejected.
- II. If the trial is not started within one year, the applicant is at liberty to file application for bail before the trial Court.
- III. The trial Court is directed to conduct this case and decide it as early as possible, if already cases expedited by the Hon'ble Supreme Court as well as High Court are concluded. Needless to mention that it is sessions case, it has to be heard and decided in literal sense of word session. Needless to mention that the word session means once it is started, it should not be stopped till the trial is concluded.
- IV. In view of this, the trial Court is expected to frame the charge against the applicant-accused and proceed further with the trial by keeping it twice or thrice in a week. If the advocates for the accused and accused are not cooperating with the trial, the trial Court is at liberty to impose heavy costs upon the concerned accused. If the jail authority or escort party are not producing the accused before the Court, the trial Court may conduct meeting with jail authority and escort head and direct them to produce the accused for trial and if it is not followed, then the trial Court may proceed against them as per Chapter X of the Indian Penal Code for contempt of lawful authority etc.

(SANJAY A. DESHMUKH, J.)