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

3 BAIL APPLICATION NO. 503 OF 2024

KISHAN MADHUKAR LONE

....Applicant

VERSUS

THE STATE OF MAHARASHTRA

.....Respondent

Mr. V. S. Kadam, Advocate for the applicant
Mr. P. D. Patil, APP for the respondents/State

CORAM : S. G. MEHARE, J.

DATE : 08th APRIL, 2024

P. C.

1. Heard the learned advocate for the applicant and learned APP for the respondents/State.

2. This is an application for grant of regular bail. The applicant was arrested in connection with Crime No. 147/2022 registered with Ardhapur Police Station, Dist. Nanded for the offences punishable under Sections 307, 324, 294, 427, 323 read with Section 34 of the Indian Penal Code.

3. Learned counsel for the applicant submits that false the allegations were levelled against the applicant that he assaulted Unmesh with a sharp weapon. However, injury report does not show that Unmesh has suffered cut injuries probably caused by sharp weapon like Katti. At the time of his first bail application, the chemical analysis report was not available. Now it is available. Said report does not reflect that so called weapon was with blood stained. Oral statements of the injured and so called relatives witnesses do not match with the chemical analysis report and injury report. Other co-accused allegedly assaulted with iron rod have granted bail. He would submit that there are no antecedents to this discredit. The applicant is languishing in jail for more than 21 months. The trial would take its time. Hence, he prays for bail.

4. Learned APP submits that ocular evidence would prevail over the medical evidence. There may be a mistake on the part of the prosecution narrating the history to the Medical Officer. Barely having no blood on the weapon allegedly used in

the crime, is not the ground to disbelieve the ocular witnesses. The learned counsel for the applicant did not point out the material that the applicant had been falsely implicated and thereafter there were change in circumstances. Offence is serious. Hence, his bail application may be rejected.

5. Learned APP is correct in arguing that the ocular evidence prevails over the medical evidence. However, to believe the ocular evidence, there should be something to corroborate.

6. In the earlier bail application, considering the facts and allegations, this court had declined bail, because report of chemical analysis was not available. Now the Chemical Analysis report is available. Report does not reflect that weapon allegedly used was blood stained. Comparing the nature of weapon with the injuries allegedly sustained, there it raises doubt whether that said weapon was used. The presence of the applicant may be there, but chemical analysis report does not support the role allegedly attributed to him. The applicant has new material and

it is a change in circumstance.

7. In view of discussion made above, this court is of the view that the applicant deserves bail. Hence, the following order is passed:-

ORDER

a] Bail application is allowed.

b] Applicant be released on bail on furnishing P.B. and S.B. of Rs.50,000/- [Rupees Fifty Thousand only] with one surety of the like amount in connection with Crime No. 147/2022 registered with Ardhapur Police Station, Dist. Nanded for the offences punishable under Sections 307, 324, 294, 427, 323 read with Section 34 of the Indian Penal Code, on following conditions:-

- i) The applicant shall not tamper with the prosecution evidence.
- ii) Applicant shall attend all the dates fixed for hearing of Sessions Case.

[S. G. MEHARE, J.]