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

BAIL APPLICATION NO. 885 OF 2024

**RUSHIKESH S/O. SAMBHAJI GHUTE AND ANOTHER
VERSUS
THE STATE OF MAHARASHTRA.**

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Mr. S.S. Thombre, Advocate for applicant.
Mr.P.D. Patil, APP for respondent No.1.

CORAM : S.G. CHAPALGAONKAR, J.

DATE :- 22nd JULY, 2024.

ORDER :-

1. The applicants seek bail in connection with Crime No. 49 of 2023 registered with Police Station, Yousuf Wadgaon, Taluka Kaij, District Beed for the offences punishable under sections 307, 326, 324, 504 r/w. 34 of IPC

2. Investigation was set in motion on the basis of information given by Rukmini Dutta Ghuge, wherein she alleges, that the applicants and other co- accused obstructed the informant and her husband Datta while they were harvesting Gram-Peas. It is alleged that the accused Sambhaji assaulted Datta by stones, whereas, the applicants assaulted him by means of a sickle and caused serious injury on vital parts. Even they assaulted the informant when she was attempted to save Datta from the attack.

2. In pursuance to the aforesaid Crime, applicants have been

arrested on 6.3.2023. The investigation is complete and charge-sheet is filed. The previous bail application filed by the applicants was rejected by the Sessions Judge on 28th August 2023. Thereafter, the applicant approached this court vide Bail Application No. 1649 of 2023. However, said application was withdrawn with liberty to move afresh after 6 months in case the trial could not be completed.

3. Mr. S.S. Thombre, learned advocate for the applicants submits that the applicants are behind bars for almost one and half year. The trial is at the nascent stage . The applicant No.1 was a boy of tender age at the time of offence. The dispute occurred on account of cultivation of agricultural land. The applicants have no criminal antecedents. The applicants are ready to abide by any condition, as imposed by this Court.

4. Learned APP, however, opposes the prayer contending that the applicants are author of the serious injuries suffered by victim Datta as well as informant. He invites attention of this Court to the medical certificates and the gravity of injuries. He would, therefore, submit that there is sufficient material to bring home the charge under Section 307 of IPC against applicants and release of the applicants is likely to hamper smooth trial.

5. Having considered submissions advanced, prima facie, it appers that there is a dispute of civil nature between complainant and accused persons and incident occurred in the field while harvesting was going on. No criminal antecedents to discredit the applicants are brought to notice of this court. The applicants are behind bars for almost 17 months. The charge is framed, however, since February matter is posted for evidence without much progress. At this stage, it would be apposite to refer to observations of Supreme Court in the matter of *Javed*

Gulam Nabi Shaikh Vs. State of Maharashtra and other (Criminal Appeal No. 2787 of 2024, decided on 3.7.2024) para. No. 19 states thus :-

“19. If the State or any prosecuting agency including court concerned has no wherewithal to provide or protect the fundamental right of an accused to have speedy trial as enshrined under Article 21 of the Constitution of India, then, the State or any other prosecuting agency should not oppose the plea for bail on the ground that crime committed is serious. Article 21 of the Constitution applies irrespective of nature of crime.”

The court has further observed that the object of bail is to secure attendance of the accused at trial and it is indisputable that bail is not to be withheld as a punishment.

9. Keeping in mind the aforesaid principles of law and the fact that trial is moving with snail pace and applicants have already suffered incarceration for 17 months, a case is made out for grant of bail. Hence, the following order :-

: O R D E R :

[I] The application is allowed.

[II] The applicants – (I) Rushikesh Sambhaji Ghuge and (II) Sonerao @ Govind s/o. Baburao Rakh, be released on bail on furnishing P.B. and S.B. of Rs. 50,000/- (rupees fifty thousand) each with one solvent surety of the like amount, in connection with crime No.49 of 2023 registered with Yusuf Wadgaon Police Station, Taluka Kaij, Dist. Beed for the offences punishable under Sections 307, 326, 324, 504 r/w.

34 of IPC, on the following conditions :-

[i] The applicant shall not tamper with the prosecution evidence,

[ii] The applicant shall not enter the village Hoal, Taluka Kaij, Distict Beed till disposal of sessions trial.

[iii] The applicant shall not indulge in similar offences.

[iv] The application is accordingly disposed of.

[S.G. CHAPALGAONKAR]
JUDGE

grt/-