



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

962 BAIL APPLICATION NO. 1032 OF 2024

Akash Anil Solunke

VERSUS

The State Of Maharashtra

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Advocate for Applicant : Mr. Rahul R. Karpe
APP for Respondents-State: Mrs. M. L. Sangit
Advocate for Assist to APP : Mr. P. P. More

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**WITH
CRIMINAL APPLICATION NO. 3852 OF 2024
IN BA/1032/2024**

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CORAM : ARUN R. PEDNEKER, J.

Dated : December 10, 2024.

PER COURT :-

1. Criminal Application No.3852/2024 is filed for Assist to learned APP. The said application is allowed and disposed of.
2. Heard learned counsel for the applicant, the learned APP for the respondent-State, and the learned Counsel for the Assist to APP.
3. The applicant is seeking bail as he was arrested in connection with FIR No.312/2022, dated 01/12/2022, registered with Nilanga Police Station, District Latur, for the offences punishable under sections 302, 307, 279, 337, 143, 147, 148, 149, 504, 506 of the Indian Penal Code.

4. The case of the prosecution, in brief, is noted below :-

The alleged incident from which the present proceedings arise on 01/12/2022 at 1:10 p.m. However, prior to this incident, there was another incident involving the parties on 18/05/2021, which resulted in the registration of an FIR wherein it is alleged that the father of the applicant was murdered by 19 other persons including the informant and the deceased. Accordingly, an FIR was registered bearing No.312/2022 under Section 302 of the Indian Penal Code and other allied offences.

5. On account of the rivalry between the parties, it is alleged that on 01/12/2022, when the informant, the deceased, and others (accused in the earlier FIR No.129/2021) were traveling to the court, an incident occurred approximately 25 to 30 km from the court premises. The applicant along with others assaulted the informant and others including informant's father who died on account of the assault. At the relevant time, the applicant was driving a Scorpio vehicle, which he allegedly rammed into the deceased, Kiran, and his brother, Deepak. Both fell from their two vehicle (scooter-cycle) due to the impact. Thereafter, the applicant, along with Akash Solunke, Rahul Solunke, Shobha Solunke, Amar Solunke, Sunil Solunke, Ajit Solunke, Parmeshwar

Balaji Solunke, and Balaji Solunke, got down from the vehicle and assaulted Kiran (deceased) and Deepak.

6. It is specifically alleged that the applicant assaulted Kiran (deceased) and Deepak with an iron rod, while others used sticks and stones. Subsequently, another vehicle (a Creta) arrived at the scene. The occupants from Creta disembarked from the car and further assaulted Kiran and Deepak. When the informant, Rahul Siddheshwar Solunke, attempted to intervene, they were threatened, forcing them to flee into a nearby field.

7. FIR was registered on 01/12/2022 at 1:10 p.m. Kiran, who was grievously injured, was taken to the hospital but succumbed to his injuries and declared brought dead. Deepak survived with injuries. The applicant along with other were arrested in connection with this case on 26/12/2022 and has been in custody since then. After the investigation, a chargesheet is filed, and the applicant has filed a bail application post the filing of the chargesheet. All other accused are granted bail by the Sessions Court.

8. The applicant argues that there are ten witnesses to the alleged assault. Of these, six witnesses are accused in the earlier FIR No.129/2021 related to the murder of the applicant's father. Some of the accused in the present case are also witnesses in the earlier case. Out of the remaining four witnesses, only two Madhav and Balaji are allegedly independent witnesses with no connection to the ongoing disputes between the parties.

9. Upon reviewing Madhav Solunke's statement, it is to be noted that he arrived at the scene around 10:50 a.m. He has stated that the applicant and others got down from the Scorpio, and the applicant assaulted Kiran with an iron rod on the head, stomach, and back, causing injuries. Madhav also mentioned that Rahul Solunke used an iron rod to assault Deepak, while Parmeshwar, Balaji, and Anant Mohite used sticks to assault Deepak. Balaji's statement corroborates Madhav's version, detailing the roles of the various accused individuals.

10. The medical report reveals multiple injuries on the deceased, which can be attributed to assaults by various individuals. While no single injury is identified as fatal, the cumulative impact of 32 injuries led to Kiran's death. The learned APP and Mr. More, appearing for the

informant, argued that the applicant intentionally hit the two wheeler on which the deceased was travelling with the Scorpio with the intention to kill the deceased and subsequently assaulted the deceased with the intent to kill.

11. The prosecution also highlighted that the applicant has been a troublesome individual and even in custody, he allegedly threatening co-accused and is creating problems in the jail. They contended that granting bail could disrupt the trial and escalate tensions between the parties.

12. Considering the submissions, it is necessary to note following facts emerging from the record.

a) There is a history of enmity between the parties, with the applicant's father allegedly killed by the informant and others, leading to a criminal case under Section 302 of the IPC against the informant and others who are also witness in this case.

b) *Prima facie*, the evidence from Madhav and Balaji suggests that the applicant was present at the scene and involved in the assault.

c) Other co-accused who disembarked from the Scorpio and assaulted Kiran and Deepak have been granted bail. However, the applicant's role appears to be more severe as it is alleged that he deliberately caused accident. However, on account of prior rivalry the possibility of exaggeration of the applicants role cannot be ruled out.

d) The medical report indicates multiple injuries on the deceased. However, there is not a single injury grievous enough which can cause death in ordinary circumstances. The injuries caused to the deceased include fractures to the legs.

13. The offence although classified under Section 302 but considering the nature of injuries even if accepted as alleged could potentially fall under Section 304 Part I or II of I.P.C. The possibility of exaggeration due to prior enmity cannot be ignored. The other co-accused have been granted bail. The applicant is in jail since 26/12/2022 (nearly two years). The trial will take long time due to large number of witnesses in the matter. Thus, considering the above facts, the applicant deserves to be granted bail.

14. It would be appropriate to grant bail to the applicant on following terms and conditions :-

- a] The applicant shall be released on bail in connection with FIR No.312/2022, dated 01/12/2022, registered with Nilanga Police Station, District Latur, for the offences punishable under sections 302, 307, 279, 337, 143, 147, 148, 149, 504, 506 of the Indian Penal Code, on furnishing PR bond of Rs.20,000/- with one or two sureties in the like amount to the satisfaction of the trial Court.
- b] The applicant, upon being released on bail, shall not contact the informant, in any manner whatsoever, during the pendency of the trial.
- c] The applicant shall co-operate with the trial Court and he shall attend each and every date, unless exempted by the trial Court.
- d] The applicant shall not tamper with the evidence of the prosecution and he shall not influence the informant, witnesses and other persons concerned with the case.
- e] The applicant, upon being released on bail, shall place on record of the trial Court the details of his Contact Number and residential address with updates in case of any change.
- f] The applicant shall not visit Yelnoor Village, Tahsil Nilanga, District Latur, till the examination of eye witness in the trial. The applicant has undertaken that he would not seek relaxation of clause (f).

15. Needless to say, in case of violation of any of the aforesaid conditions, the bail granted to the applicant shall be liable to be cancelled. It is also clarified that the observations made in this order are limited to the disposal of the present bail application. The concerned Court shall proceed further in the matter without being influenced by the observations made hereinabove.

16. The application stands disposed of.

(ARUN R. PEDNEKER, J.)

vj gawade/-.