

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO. 1051 OF 2024

Nitin @ Thakan Bhausaheb Alhat

VERSUS

The State Of Maharashtra

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Advocate for Applicant : Mr. Pathan Zafar M

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

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CORAM : S.G. MEHARE, J.

DATED : JULY 11, 2024

PER COURT:-

1. Heard learned counsel for the applicant and learned APP for the State.

2. The applicant seeks bail in Crime No.485 of 2023 registered with Sonai Police Station, District Ahmednagar for the offence punishable under Sections 307, 326, 324, 504, 506, 143, 147, 148, 149 of the Indian Penal Code, Sections 3, 4 and 25 of the Arms Act and Sections 37(1), 37(3) and 135 of the Maharashtra Police Act.

3. The prosecution has a case that the applicant has no good past. Many serious crimes are registered against him. The applicant was captured in the CCTV. He was armed with axe and was assaulting the injured repeatedly. The weapon like revolver has been recovered from him in another crime. Though the injury is not serious, the intention of the applicant was clear that he was intending to kill the injured. The police has also the submission that the

applicant has created a terror in the locality where the students came from outside to take education.

4. Learned counsel for the applicant would submit that false allegations of opening fire by the applicant has been made. The CCTV footage is otherwise. He would argue that the applicant did not assault the injured. He just raised the weapon at the injured. The antecedent is no ground to refuse the bail. To bolster his arguments, he relied on the case of Maulana Mohammed Amir Rashadi Vs. State of U.P. and another, 2012 (2) Mh.L.J. (Cri.) 412. He also argued that the applicant is behind bar since last five months. The investigation has been completed. Nothing is to be recovered from the applicant. He also argued that two accused have been granted bail. Hence, the applicant deserve parity.

5. Learned APP has strongly opposed the application. She would submit that the applicant has played an active role in the crime. Serious offences are registered against him. There is every chance of repeating the crime at the hands of the applicant. Deadly weapon like axe has been used to assault the injured. All the accused were chasing the injured to hit him with the weapons. The applicant was aggressive. Considering his role attributed to him in the crime and the past, he may not be granted bail.

6. Perused the papers. The CCTV footage is the best evidence available with the prosecution. It indicates that the

applicant was playing an active role and assaulting the injured with deadly weapon like axe. The ratio laid down in the case of Maulana Mohammed Amir Rashadi (cited supra) would not apply for the reason that the role of the applicant in this case is active and he assaulted the injured by chasing him. The prosecution has material to show that the applicant has created a terror in the locality where the students from outside come for education. The apprehension of the prosecution that the applicant may commit another crime has also foundations.

7. For the above reasons, the Court is of the view that this is not a fit case to exercise the discretion under Section 439 of the Criminal Procedure Code. Hence, the application stands dismissed.

(S.G. MEHARE, J.)