



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

BAIL APPLICATION NO. 1202 OF 2024

DEVIDAS @ AVINASH @ ABA VIKRAM ALHAT
VERSUS
THE STATE OF MAHARASHTRA

...
Advocate for Applicant : Mr. D. R. Kale
APP for Respondent : Ms. S. S. Joshi
...

CORAM : S. G. MEHARE, J.

DATE : 01-08-2024

PER COURT :-

1. Heard the learned counsel for the applicant and the learned A.P.P. for the respondent.
2. The applicant seeks bail in C.R.No.485 of 2023 registered with Sonai Police Station, Taluka Newasa, District Ahmednagar, for the offences punishable under Sections 307, 326, 324, 504, 506, 143, 147, 148, 149 of the Indian Penal Code and Sections 3, 4, 25 of the Arms Act and Section 31(1), 37(3) and 135 of the Maharashtra Police Act.
3. Learned counsel for the applicant submits that the C.C.T.V. footage of the incident barely shows the presence of the applicant. However, the allegations in the first information report and the statement of the witnesses have been exaggerated. The statement against the applicant is that he was holding a sickle.

The C.C.T.V. footage is the best evidence. The oral evidence is contradictory to what has been captured in the C.C.T.V. footage. Except this, there was no overact against him. Only one crime is regularized against him. However, except the alleged role attributed in the crime to his discredit, no incriminating evidence is recovered from him. Hence, he may be granted bail.

4. Learned APP for the State has strongly opposed the application. She submits that there are eyewitnesses to the incident specifying the role attributed to the applicant. He was also holding deadly weapon. He was chasing the deceased to kill. The injuries match with the allegations. Since Section 149 of the Indian Penal Code is applied, his presence is sufficient. He came on the spot with the other co-accused. There is evidence to believe that he came with co-accused with common object to kill the victim. He has four antecedents to his discredit. Hence, it is not safe to grant him bail.

5. Learned APP is correct in saying that the antecedents may be one of the grounds to refuse bail. However, it does not bar the Court from exercising jurisdiction. In the cases of antecedents, the Court has to examine the role attributed to the applicant in the crime in which he seeks bail.

6. The C.C.T.V. footage, now a days, is a honest evidence. The entire material and the incident captured in the C.C.T.V. footage.

Nowhere the applicant was captured holding deadly weapon or assaulting the injured. The evidentiary value of the eyewitnesses would be appreciated by the trial Court. Considering the role attributed to him and no recovery of weapon, bail may be granted to the applicant on certain conditions. Hence, the order :-

ORDER

- i) The application is allowed.
- ii) Applicant - Devidas @ Avinash @ Aba Vikram Alhat be released on bail, on furnishing PB and SB of Rs.50,000/-, with one solvent surety of the like amount, in the above crime for the aforesaid offences, on the conditions that,
 - (a) He shall not tamper with the prosecution witnesses.
 - (b) He shall attend the trial on each and every effective date.
 - (c) He shall not enter villages Sonai and Newasa for one year from the date of his release, except for attending the trial.

**(S. G. MEHARE)
JUDGE**

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