



IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.

1 BAIL APPLICATION NO. 1271 OF 2024

KUNDALIK HARIBHAU KHANDE

VERSUS

THE STATE OF MAHARASHTRA AND ANOTHER

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Advocate for Applicant : Mr. V.D. Salunke a/w Mr.Salunke Sudarshan J.

PP for Respondent/State : Mr.A.B. Girase

Advocate for assist to P.P. : Mr.R.G. Hange

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CORAM : **SHIVKUMAR DIGE, J.**

DATE : 28th August, 2024.

P.C.:

1. The applicant is seeking regular bail in connection with FIR No.0120 of 2024 registered with Police Station, Beed (Rural), Tq. & Dist. Beed, for the offences punishable under sections 307, 326, 324, 323, 341, 120-B, 143, 147, 148, 149, 504, 506 of the Indian Penal Code (For short, "IPC").

2. It is prosecution's case that in the Gram Panchayat election of village Mhalas Javala, Tq. & Dist. Beed, informant had formed the panel and the applicant had also formed the panel. At relevant time, the applicant had pressurized the informant not to form the panel for election. It is alleged that in the said election two members from the panel of the informant have been elected. It is alleged that the informant was appointed as Deputy District President of Shivsena Shinde faction and he had affixed flex regarding his appointment, but on that flex he did not affix the photo of the applicant, hence the

maternal brother co-accused – Gorakh @ Pappu of the applicant had threatened the informant on 2nd April, 2024. It is alleged that on 3rd April, 2024, around 5:30 p.m., when the informant was going in his Car with his friends, his Car was intercepted by one Car and from the said Car the co-accused got down. They took out key of the informant's Car and abused the informant and his friends. It is alleged that at that time, four persons came on motorcycle. They were holding the wooden rod in their hand. The persons got down from Car took out iron rod and wooden rod from Car and they assaulted the informant and his friends with iron rod and wooden rod. The persons, who had come on motorcycle had covered their faces with handkerchief. It is alleged that all the co-accused assaulted the informant and his friends with intention to kill them. It is alleged that at the time of assault, co-accused were stating that the applicant was admitted in the hospital and his brothers are out of Beed, they had assaulted informant on the say of the applicant.

3. It is the contention of the learned counsel for the applicant that the applicant has been falsely implicated in this case. The applicant was not present at the time of incident. Though the offence was registered on 5th April, 2024, the applicant has been arrested in connection with this crime on 29th June, 2024 i.e. after Lok Sabha elections. The learned counsel further submitted that the applicant's video gone viral on social media stating that he did not help the

Pankaja Mundhe, BJP candidate in Lok Sabha election. Thereafter he has been arrested due to political vendetta. The learned counsel further submitted that the applicant is behind bar more than two months. Investigation is almost completed. Nothing is recovered at the instance of the applicant. Co-accused has been released on bail, hence requested to allow the application. He relied on ***Mohammad Wajid and another Vs. State of U.P. and others (2023 SCC Online SC 951)***, ***Maulana Mohd. Amir Rashadi Vs. State of U.P. and another (2012 AIR SCW 1048)*** and ***Prabhakar Tewari Vs State of U.P. (AIR Online 2020 SC 96)***.

4. It is the contention of the learned APP along with the learned counsel for assist to P.P. that the applicant is main perpetrator of the said crime. At his instigation, the informant and his friends were assaulted by the co-accused with an intention to kill them. The applicant is political person, hence he was not arrested by the police earlier. The learned APP further submitted that there are CDR produced on record to show that at the time of incident, the co-accused were in contact of the applicant, which shows his involvement in the crime. The applicant has criminal antecedents. If he is released on bail, he may threaten the prosecution witnesses and the informant and requested to reject the application. The learned APP along with learned counsel for assist to P.P. relied on ***Harjit Singh Vs. Inderpreet Singh (2021) 19 SCC 355***, ***Mahipal Vs. Rajesh Kumar Alias Polia***

and another (2020) 2 SCC 118, Neeru Yadav Vs. State of U.P. and another (2014) 12 S.C.R. 453.

5. I have heard all the learned counsel. Perused the F.I.R. and police papers produced on record.

6. The allegations against the applicant are that he is conspirator on the attack of informant and his friends and at his instance, the co-accused tried to kill informant and his friends. The applicant was not present at the time of incident. He has been arrested around delay of more than one month. He is behind bar more than two months. Investigation is almost completed. Role attributed to the applicant is of conspiracy, evidence is needed to prove it. I have gone through the case laws cited by the learned APP and learned counsel for assist to P.P. The facts of the cited cases and case in hand are different as in present case after registering the offence the applicant was not arrested by the police immediately. Considering above reasons, further detention of the applicant is not required and I pass the following order :-

ORDER

- (i) The application is allowed.
- (ii) The applicant in connection with FIR No.0120 of 2024 registered with Police Station, Beed (Rural), Tq. & Dist. Beed, for the offences punishable under sections 307, 326, 324, 323, 341, 120-B, 143, 147, 148, 149, 504, 506 of the Indian Penal Code, be released on executing

personal bond in the sum of Rs.25,000/- with one surety of the like amount, on the following conditions :-

- (a) the applicant shall not pressurize the prosecution witnesses and shall not tamper the prosecution evidence.
- (b) the applicant shall enter in village Mhalas Javala, Tq. & Dist. Beed till filing of the charge-sheet.

[SHIVKUMAR DIGE, J.]

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