



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

BAIL APPLICATION NO. 1477 OF 2024

SURESH SADASHIV MODKE
VERSUS
THE STATE OF MAHARASHTRA

...
Advocate for Applicant : Mr. Azizoddin R. Syed
APP for Respondent : Mr. S. B. Pulkundwar

...
WITH
CRIMINAL APPLICATION NO. 3769 OF 2024 IN BA/1477/2024

SHIVAJI ATMARAM DHEMBRE
VERSUS
SURESH SADASHIV MODKE AND ANOTHER

...
Advocate for Applicant/informant : Mr. Dhananjay M. Shinde
...

CORAM : S. G. MEHARE, J.
DATE : 06-09-2024

PER COURT :-

1. Heard the learned counsel for the applicant, the learned A.P.P. for the State and the learned counsel for the informant.
2. The applicant seeks bail in C.R.No.233 of 2024 registered with Palam Police Station, Parbhani, District Parbhani, for the offences punishable under Sections 191(2), 190, 189(3), 189(2), 118(1), 115(2), 103(1) of the Bharatiya Nyaya Sanhita.
3. The learned counsel for the applicant submits that the applicant was not named in the first information report. On the date of registering crime, the supplementary statement of the first informant was recorded in which it has been alleged against the

applicant that he assaulted the deceased by kicks, blows and pelted stone. The learned counsel for the applicant submits that the applicant has been falsely implicated in the crime only for the reason that he has some antecedents. The false allegations are levelled against him that he participated in the crime. A false case is put against him that he is a leader of the gang. There was no reason not to name him in the first information report. Nothing is recovered from him. Considering the false implication in the crime, his antecedents would not come in his way.

4. The learned A.P.P. has opposed the application mainly on the ground that there are antecedents to the discredit of the applicant.

5. The learned counsel for the victim vehemently argued that there are body offences registered against the applicant. In crime of 2022, he was granted conditional bail that he should not commit any offence and maintain peace in the society. Even then, he committed many offences. He also argued that the applicant is a gang leader. He created a terror in society. Since the police did not register the offence against him soon thereafter when the first informant learnt that his name is not mentioned in the first information report. Then in the supplementary statement his name was added. He submits that granting him bail may cause danger to the life of the witnesses and the injured. His tone of arguments were that his past shows his conduct. Therefore, it would not be safe for society to grant him bail.

6. The antecedent is not always a ground to reject the bail. The Court has to consider the role attributed to the accused in the crime in which he is seeking bail. Admittedly, there are antecedents to his discredit. However, the facts remain that the name of such a hardened criminal was missing in the first information report. By way of supplementary statement, it has been alleged against him that he was beating that the deceased and pelting stone.

7. Considering the facts and circumstances of the case, the Court has no reason to refuse him bail. However, certain conditions may be imposed. Hence, the order:-

ORDER

- i) The application is allowed.
- ii) Applicant – Suresh Sadashiv Modke 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 should attend the police station on every Tuesday between 10.00 a.m. to 12.00 noon till chargesheet is filed.
 - (b) He should stay away from the village Peth Pimpalgaon, Taluka Palam, District Parbhani, till the chargesheet is filed and thereafter one month from the date of filing chargesheet.
- iii) Criminal Application No. 3769 of 2024 stands disposed of.

(S. G. MEHARE, J.)