



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

BAIL APPLICATION NO. 1556 OF 2024

RAJU @ CHINDI MAHAJAN DHANAKWAD
VERSUS
THE STATE OF MAHARASHTRA

...
Advocate for Applicant : Mr. Bharat N. Gadegaonkar
APP for Respondent : Ms. Vaishali S. Chaudhari

...
WITH BAIL APPLICATION NO. 1551 OF 2024

KUNDAN SANJAY LANDGE
VERSUS
THE STATE OF MAHARASHTRA

...
Advocate for Applicant : Mr. Shailendra S. Gangakhedkar
APP for Respondent : Ms. Vaishali S. Chaudhari

...
WITH
CRIMINAL APPLICATION NO. 3996 OF 2024 IN BA/1551/2024
CRIMINAL APPLICATION NO. 3997 OF 2024 IN BA/1556/2024

KESHARBAI PRADIP SARPE
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

...
Advocate for Applicant/Informant : Mr. Santosh C. Bhosale

...
CORAM : S. G. MEHARE, J.

DATE : 26-09-2024

PER COURT :-

1. Heard the learned counsel for the applicants, the learned A.P.P. for the State and the learned counsel for the informant.
2. The applicants seek bail in C.R.No.122 of 2023 registered with Nanded Rural Police Station, District Nanded, for the offences

punishable under Sections 302, 386, 120B, 143, 147, 148, 149, 323 of the Indian Penal Code, Sections 3, 4, 25, 27 of the Arms Act and Section 135 of the Maharashtra Police Act and also Sections 3(1)(i)(ii), 3(2), 3(4) of the Maharashtra Control of Organised Crimes Act, 1999 (for short, "MCOC Act").

3. The prosecution has a case that the applicants assaulted the deceased in front of xerox shop, when his family members were present. It has been alleged against both applicants that they assaulted the deceased with deadly weapons and caused him stab injuries. One of the co-accused has shot fired the deceased. After assault, the deceased collapsed. Therefore, his mother and relatives took him to the hospital. The first information report was lodged attributing the specific role played by the applicants. The applicants are history-sheeters. They were running a gang. *Prima facie* evidence is available against them.

4. The learned counsels for the applicants have a common arguments that the first information report is after-thought. The first hand information given to the hospital was against three unknown persons. However, the story was cooked up and the applicants being the history-sheeters have been arraigned in the crime. The recovery of the weapons at the hands of the applicants, is also doubtful. The presence of the applicants on the spot is also seriously doubtful. There are drastic improvements in

the story narrated to the hospital and in the belated first information report. It is not the case of the witnesses that they were not knowing the names of the applicants. So it was possible for the mother of the deceased took the deceased in the hospital, to narrate the names of these applicants. Since the applicants were not present, their names were not disclosed at the first instance. The statement of one of the co-accused under Section 18 of the MCOC Act was recorded, who narrated the incident. However, that may not be used at this juncture. Applicant - Raju @ Chinddi, in addition to the above submission, claimed bail on parity.

5. The learned A.P.P. has strongly opposed the applications. She submits that the incident happened suddenly. Therefore, the mother of the deceased could not narrate the correct history to the hospital. The letter addressed to the Medical Officer by the Investigating Officer is for the postmortem report and it was not the first hand information from the complainant. The mother of the victim was under grief and confused. Hence, she could not narrate the names of the applicants. It is not the case that the incident was not at all informed to the police immediately after the incident. In the circumstances, delay in lodging the first information report could not be said to be deliberately delayed. The applicants have antecedents. There are eyewitnesses to the incident. The weapons have been recovered from the applicants.

The offence is serious. Hence, they may not be granted bail.

6. The learned counsel for the victim has vehemently argued that the applicants are habitual offenders. They were asking for a ransom to the deceased. The deceased denied to pay them money. They were continuously watching the movements of the deceased and caught him in a place where the incident happened. They brutally assaulted him and opened the fire at him and he died. The mother of the victim/deceased has no reason to implicate the applicants falsely. The mental condition of the mother may be considered. A person looking at such untoward incident may naturally confuse. Therefore, it cannot be said that it was a after-thought first information report. The bail granted to the co-accused by this Court is challenged before the Honourable Supreme Court, is pending.

7. The law is well settled that barely having antecedents against the accused is not a ground to refuse bail. The Court has to examine the facts of each case in which the accused seek bail. It appears from the record that the relatives of the deceased were knowing the applicants. It is not the case that the mother was alone with the deceased. His brother-in-law was also there. In view of the first information supplied to the medical authority about the assault by three unknown persons would be explained during the trial, but at this juncture the accused have a good case for bail.

The investigation has been completed. Nothing is to be recovered from them. However, in the interest of the witnesses, they may be protected by imposing certain conditions. Hence, the order:-

ORDER

- i) The bail applications are allowed.
- ii) Applicant - Raju @ Chindi s/o. Mahajan Dhanakwad in B.A.No.1556 of 2024 and applicant - Kundan s/o. Sanjay Landge in B.A.No.1551 of 2024 be released on bail, on furnishing PB and SB of Rs.50,000/- each, with one solvent surety of the like amount, in the above crime for the aforesaid offences, on the conditions that,
 - (a) They should not tamper with the prosecution witnesses.
 - (b) They should attend the trial on each and every date.
 - (c) They should not enter the Nanded town for one year from the date of their release except for attending the trial.
 - (d) They should supply their residential address and cell numbers to the Investigating Officer on every Tuesday between 11.00 a.m. and 2.00 p.m. till the conclusion of the trial.
 - (e) They should not contact with the co-accused each other till the conclusion of the trial.
- iii) Criminal Applications No.3996 and 3997 of 2024 stand disposed of.

(S. G. MEHARE, J.)