

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO. 1722 OF 2024
WITH
CRIMINAL APPLICATION NO.4110 OF 2024

1. Anil Balaji Sontakke
2. Jyotiram Navnath Autade
3. Rohit Balaji Gaikwad ..Applicants

Versus

1. The State of Maharashtra
2. The Superintendent of Police,
Beed, Dist. Beed. ..Respondents

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Advocate for Applicant : Mr. Salunke Sudarshan J.
APP for Respondent/State : Mr. A.B. Girase, Government Pleader &
Mr. A.A.A. Khan
Advocate for Complainant : Mr. S.G. Kawade

WITH
BAIL APPLICATION NO. 1664 OF 2024

Rajatkumar Rajesaheb Jedhe ..Applicant

Versus

The State of Maharashtra ..Respondent

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Advocate for Applicant : Mr. PP. More
APP for Respondent/State : Mr. A.B. Girase, Government Pleader &
Mr. A.A.A. Khan

WITH
BAIL APPLICATION NO. 1684 OF 2024

Mayur Suresh Kadam ..Applicant

Versus

1. The State of Maharashtra

2. The Superintendent of Police,
Beed, Dist. Beed.

..Respondents

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Advocate for Applicant : Mr. Salunke Sudarshan J.
APP for Respondent/State : Mr. A.B. Girase, Government Pleader &
Mr. A.A.A. Khan

**WITH
BAIL APPLICATION NO. 1709 OF 2024**

Asaram Datta Gavhane

..Applicant

Versus

1. The State of Maharashtra

2. The Superintendent of Police,
Beed, Dist. Beed.

..Respondents

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Advocate for Applicant : Mr. Salunke Sudarshan J.
APP for Respondent/State : Mr. A.B. Girase, Government Pleader &
Mr. A.A.A. Khan

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CORAM : S.G. MEHARE, J.

DATED : SEPTEMBER 30, 2024

PER COURT:-

1. Heard learned counsels for the respective applicants,
learned Government Pleader for the State and learned counsel Mr.
S.G. Kawade for the victim.

2. The applicants seek bail in Crime No.105 of 2024
registered with Parli City Police Station, District Beed for
the offences punishable under Sections 302, 307, 120(B), 326, 323,

143, 148, 149, 504, 506, 201 of the Indian Penal Code and Sections 3, 4, 25 of the Arms Act.

3. The incident happened on 29.06.2024 at about 04.00 to 04.30 pm in front of the house of injured Mahadev. Before the incident, the co-accused Mahadev Uddhav Gitte and Rajabhau Sanjivan Neharkar had been to Gyanoba for demanding the hand loan money. They were asking for the money to Bapurao Baburao Andhale. They threatened Bapurao that if he would not pay money by the evening, they would shot fire him. Bapurao promised them to make the money arrangement by evening. In the evening, the borrower Bapurao called the first informant and told that Mahadev Gitte and Baban Gitte called him with money. Since Bapurao could not arrange for money, he told the first informant that they would go to Mahadev to ask for further time. Therefore, the first informant, the borrower and other few persons went to the house of Mahadev, the co-accused. There were other persons present except the present applicants. Where the incident happened, both parties have assaulted each other. The borrower Bapurao was killed in that incident. The first informant also suffered the fire injury. The prosecution has a further story that after the gun shots, the assailants flee away. The first informant was taken to the hospital with borrower Bapurao. Bapurao was declared dead there. So far as the role of the applicants, the prosecution has a case that they were in contact with other co-

accused. They took the injured Mahadev who had also lodged the cross report first to Hospital at Kaij. Officer of the Kaij Hospital referred him to Ambejogai Medical College. They took them first to Dharur and to Ambejogai Hospital. The prosecution has a case that in the said Scorpio car, not only Mahadev was there but other three accused were also there. Main allegations against the applicants were that they assisted the co-accused to flee away. They were continuously in contact with each other. They had deliberately not admitted the injured Mahadev to Ambejogai Hospital. But first they went to Kaij Hospital and then went to Ambejogai Hospital. The injured Mahadev is still under treatment in the hospital at Ambejogai.

4. The applicants were arrested on 01.07.2024 and 04.07.2024 respectively. Since then they are behind bar. They were interrogated. From one applicant – Jyotiram Autade, the police have recovered country made pistol with magazines loaded with live cartridges, one pillow from the nearby place of Taluka Washi, District Osmanabad. The prosecution also relied on the CDR reports to press into service the active involvements of the applicants in the crime. However, the documents placed on record as regards the CDR are incomplete. Therefore, the learned Government Pleader could not satisfactorily argue the matter. The investigation officer is present in the Court.

5. The case diary produced before the Court seems to be incomplete. In such a situation, it is very difficult to believe at this juncture the case of the prosecution that the applicants were continuously in contact with the other co-accused. It is also difficult to find out their mobile phone tower locations. It has been alleged that they were travelled towards Pune. So, presently there are no CCTV footage recorded at the Toll Naka on Pune Road. The learned Government Pleader has argued that one of the CCTV footage from one petrol pump is recovered, but it is not greatly helpful at this juncture.

6. Learned counsel for the injured Gyanoba adopted the arguments advanced by the learned Government Pleader.

7. Learned counsels for the applicants vehemently argued that this is a politically motivated matter. The applicants have no role to play except admitting the injured Mahadev to the hospital. However, the recovery of weapon at the instance of Jyotiram is falsely created. He did not know about the incident and weapons used in the crime. They have argued that when the injured Mahadev was going to hospital after the injury sustained to him in the incident, his vehicle was failed at Village Sakud. One car came from behind. The persons in the car were alighted, Mahadev asked them for help. Therefore, they made a phone call to Applicant – Rohit. Thereafter, all these applicants reached to the spot and took the injured to the hospital.

Even if such allegations are admitted, in the worst case the applicants would be charged for the offence punishable under Section 201 of the Indian Penal Code, which is punishable upto seven years. The applicants are languishing in jail for around 90 days. Nothing is to be recovered from them. They have been falsely implicated in the crime out of the political pressure. The prosecution has no cogent and reliable evidence to prove the active role allegedly played by the applicants. The material investigation has been completed against the applicants. Absconding of the other co-accused is no ground to refuse the bail. There are antecedents to the discredit of accused Mayur and Anil. Applicant – Anil was arraigned in the offence of murder and remaining offences were under the Gambling Act and Maharashtra Prohibition Act. Considering the role attributed to the applicant, those antecedents would not come in the way even the prosecution case is admitted as it is. The foremost important argument they were insisting upon was that the applicants were not the actual assailants. They just helped the injured to admit him to the hospital. Thereafter, the story of assisting the co-accused to flee away was coloured. The prosecution did not have any evidence to believe at this juncture on such allegations.

8. Perused the applications. The case diary and the chart of CDR prepared does not bear the signature of the officers or investigation officer. Some call details without any details of the

holders of the phone numbers, its tower location has been attached with this chart. So, it is very difficult to accept the allegations as levelled against the applicants at this juncture. This Court has already observed above that the complete investigation papers have not been placed before the Court. In the circumstances, it is very difficult to believe the prosecution case at this juncture. Be that as it may, considering the allegations levelled against the applicants, admittedly they were not the actual assailants. Their role is after the incident happened and the injured Mahadev called them for help. It is surprising that the prosecution would not satisfy the Court that when the first MLC was sent to the Police Station Kaij or Ambejogai, which officer immediately visited the hospital. However, fortunately the prosecution did not deny that the Applicant – Rajatkumar admitted the injured Mahadev to the hospital. In a normal course, if a person is seriously injured, the person admitting him or anybody with him could not leave him or her alone in the hospital. Since the day of admitting to the hospital, Mahadev is still hospitalized in the Ambejogai Hospital.

9. After having gone through the papers placed before the Court and arguments advanced by the learned Government Pleader and the counsel for the injured, the Court is of the view that the material investigation against the applicants has been completed. At this juncture, there is no complete record to believe the prosecution

case. Therefore, the applicants deserve bail. Hence, the following order :

ORDER

- (i) All Bail Applications are allowed.
- (ii) Applicants in all the above bail applications, be released on bail on furnishing P.B. and S.B. of Rs.50,000/- (Rupees Fifty Thousand only) each with one solvent surety of the like amount each in the above crime, on the conditions that ;
 - (a) The applicants should attend the police station as and when called on written notice by the investigation officer till filing the charge sheet.
 - (b) After the charge sheet is filed, the applicants should attend the trial on each and every date.
- (iii) This Court passed the order dated 27.09.2024 directing the investigation officer not to file the charge sheet today unless this Court passes any order. Today is the last day of filing the charge sheet as required by law. This Court passed the orders of granting bail to the applicants at 12.10 pm. Now, the investigation officer is at liberty to file the charge sheet in the concerned Court receiving the acknowledgement of time and date of filing of the charge sheet.

(9)

(iv) Criminal Application No.4110 of 2024 stands disposed of.

(S.G. MEHARE, J.)

Mujaheed//