



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO. 1578 OF 2024
WITH CRIMINAL APPLICATION NO. 4059 OF 2024

Ganesh Namdev Shinde
VERSUS
The State Of Maharashtra And Another

Mr. S. R. Andhale, Advocate for the applicant
Mr. P. K. Lakhotiya, APP for the respondent/State
Mr. N. B. Narwade, Advocate for the informant

CORAM : R. M. JOSHI, J.
DATE : 22nd OCTOBER, 2024

PER COURT :-

1. Applicant apprehends arrest in connection with Crime No. 399/2024 registered with Shevgaon Police Station, Dist. Ahmednagar for the offence punishable under Sections 302, 143, 147, 148, 149, 323 and 120-B of Indian Penal Code.
2. First informant report lodged by Sanket indicates that on 02/05/2024 at about 10 pm he along with his cousin brother Aniket went to Sharatakli, Tq. Shevgaon to a fair. At about 10.45 pm they heard clamour and so they went towards the said noise. They saw that his younger brother Akshay being assaulted by Ajay, Kiran, Pankaj, Avinash and Vikas with the weapons held by them. He states that there were about 3 to 4 other persons present however he did not recollect their

name they assaulted him with kick and fist blows. In the said incident, Akshay sustained serious injuries. He was admitted in the hospital but succumbed with the said injuries.

3. Learned counsel for the applicant submits that the applicant has not been named in the first information report and there is no specific allegation against him that he caused any assault on deceased. It is his contention that now investigation is over and charge-sheet is filed. By referring the charge-sheet it is his submission that there is absolutely no evidence against the present applicant to show his involvement in the crime and as such he deserves bail.

4. Learned APP as well as learned counsel for the informant opposed the grant of bail by citing seriousness of the crime. It is their contention that co-accused in his statement under Section 27 of the Evidence Act has named present applicant to be one of the assailant and pursuant to the said statement there is recovery of incriminating articles. Thus, it is their contention that this evidence is sufficient to connect the applicant with this crime.

5. Perusal of the first information report does not show that the informant had seen present applicant having causing assault on his

brother with any weapon or otherwise. Apart from this even from the entire charge-sheet it is not the statement of single witness who has attributed any role to the present applicant in this crime. As far as the panchnama under Section 27 of the Evidence Act is concerned, the said panchnama would be admissible against co-accused who made that statement to the extent of discovery of any fact pursuant to such statement. This Court finds said evidence as sought to be contended by learned APP and learned counsel for the informant to be inadmissible against applicant and hence unable to connect the applicant to this crime. Applicant is said to have no criminal history behind him. Hence, application stands allowed in following terms. Observations made herein are restricted to the extent of this application and trial Court is not bound by the same.

ORDER

(i) In the event of arrest of applicant in connection with Crime No. 399/2024 registered with Shevgaon Police Station, Dist. Ahmednagar for the offence punishable under Sections 302, 143, 147, 148, 149, 323 and 120-B of Indian Penal Code, he shall be released on bail on furnishing PR Bond of Rs.15,000/- (Rupees Fifteen Thousand only) with one solvent surety in the like amount.

(ii) He shall attend the concerned police station as and

when called by the Investigating Officer.

(iii) He shall not contact the witnesses directly or indirectly.

(iv) He shall not interfere with the evidence in any manner whatsoever.

(v) He is further directed to cooperate the investigating agency for further investigation.

(R. M. JOSHI, J.)

ssp