



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

929 BAIL APPLICATION NO. 1940 OF 2023

- 1) Shivprasad s/o Bajrang Bhujbal.
- 2) Shivsamb s/o Bajrang Bhujbal. **... Applicants**

Versus

The State of Maharashtra. **... Respondents**

...
Mr. Rajendra S. Deshmukh, Senior Counsel, i/b Mr. Devang Rajendra Deshmukh a/w Ms. Rakshanda Jaiswal, Advocate for Applicant.

Mr. Satish A. Gaikwad, APP for Respondent/State.

Mr. Shivsamb N. Janakwade, Advocate to assist the Prosecution.

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CORAM : SANJAY A. DESHMUKH, J.

DATE : 09th January, 2024.

P.C.:

1 Heard.

2 This is an application, under Section 439 of the Code of Criminal Procedure, 1973, for grant of regular bail in connection with Crime No.73 of 2023, registered with Palam Police Station, District Parbhani, for the offences punishable under Sections 302 read with 34 of the Indian Penal Code.

3 It is averred in the report that the uncle of informant

Munjaji Narbaji Lokhande attended a religious ceremony of *Vastu Shanti* at village Porjawala and also engagement ceremony at village Vanipimpalgaon, Taluka Palam, District Parbhani. The informant also went there. After completion of engagement ceremony, Munjaji proceeded by the motorcycle at about 04:00 pm from Vanipimpalgaon to Digras. He was alone. The informant was proceeding by his four wheeler. That time, he received a phone call from his wife that Munjaji is lying injured at Vanipimpalgaon to Digras Road. The informant went there. Ambulance was called and Munjaji was admitted in Shankarrao Chavan, Zilla Rugnalaya, Nanded. During journey, Munjaji told the informant that the applicants assaulted him by iron rod and stick on his hand, back and stomach. He was admitted there at about 07:00 pm to 07:30 pm. Till 10:00 pm, he was able to talk. That time, he told that applicants assaulted him because he was surety of Gangadhar Bhujbal's case who was acquitted from one criminal trial. Therefore, these applicants were enraged and they assaulted him.

4 The learned Senior Counsel for applicants submitted that it is a case of oral dying declaration. However, the report is not lodged as soon as it was made. It was disclosed by Munjaji to the informant. There is no written dying declaration. The alleged incident took place on the road. However, no any independent witness is examined. All the injuries are mostly on the hand and leg. The age of the deceased

was 76 years. All the witnesses are interested witnesses. The applicants are falsely implicated in the crime. The delay caused for lodging the report is not explained. The learned Senior Counsel lastly prayed to allow the application.

5 The learned APP for the State and the learned counsel for the informant strongly opposed the application. They pointed out the statements of witnesses and photographs of the spot of incident. They submitted that accused No.1 handed over iron rod and stick used for assaulting Munjaji. There is strong motive. Because of the suretyship of Munjaji, he has been murdered. They pointed out the statements of witnesses. It is lastly prayed to reject the application.

6 Perused the charge-sheet. The report is admittedly lodged after the death of Munjaji on second day of the incident at about 17:29 hours on 25th April, 2023. The delay caused for lodging the report is not explained. The witnesses, whose statements are recorded on 26th April, 2023 have also not proceeded to lodge the report or intimate that fact to the family members of deceased Munjaji. No doubt there are 30 injuries sustained to Munjaji, but there is no independent witness of the alleged incident, which took place on the public road in the broad daylight. The applicants have roots in the society. They have no criminal antecedents. They will not flee away

from trial. The trial will take long period. Considering all these aspects, the application deserves to be allowed on certain conditions.

Hence, the following order:-

ORDER

- I. The application is allowed.
- II. The applicants in connection with Crime No.73 of 2023, registered with Palam Police Station, District Parbhani, for the offences punishable under Sections 302 read with 34 of the Indian Penal Code, be released on bail on furnishing personal bond of Rs.25,000/- each with surety of the like amount on following conditions:-
 - a) The applicants shall not pressurize the witnesses.
 - b) The applicants shall not tamper with the prosecution evidence in any manner.

7 The observations are for the purpose of deciding the present bail application only.

[SANJAY A. DESHMUKH, J.]

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