



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

BAIL APPLICATION NO. 2176 OF 2023

**SHIVANAND @ SACHIN SAHEBRAO PUYAD
VERSUS
THE STATE OF MAHARASHTA**

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Advocate for the Applicant : Mr. V. B. Dhage
A.P.P for Respondent-State : Mrs. R.R. Tandale
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**CORAM : S. G. MEHARE, J.
DATE : 09.01.2024**

PER COURT :

1. Heard the learned counsel for the applicant and the learned A.P.P for the State.
2. This is a successive bail application of applicant in Crime No. 54 of 2021 registerd with Barad Police Station, District Nanded for the offences punishable under Sections 302, 364, 120(B) read with Section 34 of the Indian Penal Code and Sections 3, 4/25, 7/27 of the Indian Arms Act.
3. The applicant seeks bail on the ground of parity. The learned counsel for the applicant would submit that the role attributed to co-accused Dnyaneshwar who was granted bail and the applicant is identical. He read the statement of the one eye witness and contended that the false allegations have been leveled against the applicant that

he assaulted the deceased with a sword. He also referred to the post mortem report and contended that there were no injuries on the heap of the deceased. He also argued that since 2021 the applicant is behind bar. There is no progress in the trial. He placed on record the daily status report of the trial Court which indicates that the next date is fixed for charge on 12th January 2024.

4. The learned A.P.P. read the statement of another eye witness, recorded under Section 164 of the Code of Criminal Procedure, who was with the deceased. He has specifically alleged the role attributed to the applicant. He stated that the applicant was holding a sword and he plunged sword into the heap of the deceased. He took the deceased to the hospital. She submitted that there is a direct evidence against the applicant. The role attributed to the applicant is different from the co-accused Dnyeshwar, therefore, the application deserves to be dismissed.

5. After hearing the learned respective counsels, the Court expressed disinclination to grant bail on merits, the learned counsel for the applicant sought time to take instructions. Hence, the matter was adjourned for Second Session. In the second session, the learned counsel for the applicant submitted that he has instructions to withdraw the application, however the trial may be made time bond

and if the trial is not concluded within the given time, he may be granted liberty to file the fresh bail application. Apparently, he started bargaining with the Court and suggesting the conditions while passing the bail rejection order. Finally, he stated that the application be decided on the merits.

6. There appears substance in the argument of the learned A.P.P that there is a direct evidence against the applicant. The material against the applicant was considered while deciding the earlier bail application. There are no change in circumstances. The role attributed to the co-accused Dnyaneshwar who has been granted bail is altogether different from the role attributed to the applicant; hence, the parity may not be extended to him. As far as the trial is concerned, it is posted for framing of charge. On 01.01.2024 one application (Exhibit-77) was decided. This indicates that the intermediate applications were filed; hence, trial could not be progressed. There is nothing on record to establish that the prosecution is deliberately protracting the trial is unfounded. Hence, the argument that there is no progress in the trial is unfounded.

7. For the above reasons, the application stands dismissed.

(S. G. MEHARE, J.)

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