



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

29 BAIL APPLICATION NO. 2278 OF 2023

ATUL S/O POPAT FUNDE
VERSUS
THE STATE OF MAHARASHTRA

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Advocate for Applicant : Mr. Ramesh Ramdas Imale.

APP for Respondent/State : Mrs. Pratibha J. Bharad.

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CORAM : **SANJAY A. DESHMUKH, J.**

DATE : 22nd 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.532 of 2023, registered with Pathardi Police Station, District Ahmednagar, for the offences punishable under Sections 302, 307, 324 and 201 read with 34 of the Indian Penal Code.

3 It is averred in the report by the informant that she is residing with her parents as there is matrimonial dispute with her husband. Her sister Sarika Bapu Hange also came there for attending a marriage of the relative. There is earlier enmity between Namdeo Ambadas Bade, who is cousin of the informant with the father of informant on account of partition of agricultural land. It is further

averred that on 28th May, 2023, all the family members of the informant i.e. her mother, sister, father etc. slept in the courtyard of the house. On 29th May, 2023 at about 02:00 am, the informant heard hue and cry of her mother Latabai. The informant woke up. She saw that there was an axe in the hand of her cousin Namdeo. Namdeo assaulted the informant on her leg by an axe and ran away. The nephew of Namdeo thereafter, came there alongwith an axe, also ran away. The informant made hue and cry. Therefore, her father Ramkisan woke up. When the informant saw her mother, she was having injury to her head, she told the informant that Namdeo assaulted her by an axe on her head and this applicant Atul assaulted by an axe on the head of her sister Sarika. Sarika was unconscious, therefore, ambulance was called. The police also came there and she was taken to Sub-District Hospital, Pathardi. Thereafter, Sarika was taken to Max Care hospital, Ahmednagar. The report was lodged on the second day i.e. on 29th May, 2023 at about 02:21 pm. Sarika succumbed to injuries on 31st May, 2023.

4 The learned counsel for applicant submitted that the axe used for commission of alleged crime is not seized. The seizure *Panchanama* of the clothes of the applicant and his maternal uncle Namdeo do not disclose any blood stains. The learned counsel for applicant pointed out the statement of witness Santosh Bhagwan

Palve, in which it is stated that he came to know that somebody assaulted Latabai and Sarika on that night.

5 The learned counsel for applicant pointed out the earlier N.C. registered by the maternal uncle against the injured Latabai, her husband and their two daughters, including Sarika about the incident of quarrel that took place on 21st May, 2023. The learned counsel for applicant submitted that the applicant is falsely implicated in the crime. The trial will take long period. The applicant has roots in the society. He will not flee always from trial. It is lastly prayed to allow the application.

6 The learned APP for the State strongly opposed the application and pointed out the statement of eye-witnesses, who have seen the applicant and his maternal uncle while proceeding after the incident of assault having an axe in their hands. Considering the serious nature of crime, it is lastly prayed to reject the application.

7 Perused the charge-sheet. No doubt the names of applicant and his maternal uncle are mentioned in the report that they assaulted the mother of informant and her sister on the head by axe. The axe used for commission of crime is not seized and there is no such explanation on the part of prosecution as to why those articles are not seized. The clothes of the applicant and co-accused though

seized, those are not having blood stains. Even though both of them were arrested on the day of lodging of the report. Considering all these aspects, nature of crime, the applicant has roots in the society, he will not flee away from trial and the trial will take long period, the application deserves to be allowed on certain conditions. Hence, the following order:-

ORDER

- I. The application is allowed.
- II. The applicant in connection with Crime No.532 of 2023, registered with Pathardi Police Station, District Ahmednagar, for the offences punishable under Sections 302, 307, 324 and 201 read with 34 of the Indian Penal Code, be released on bail on furnishing personal bond of Rs.50,000/- with surety of the like amount on following conditions:-
 - a) The applicant shall not pressurize the prosecution witnesses.
 - b) The applicant shall not tamper with the prosecution evidence, in any manner.
 - c) The applicant shall not enter into village Yedi, Taluka Pathardi, District Ahmednagar till decision of the trial.

[SANJAY A. DESHMUKH, J.]