



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

BAIL APPLICATION NO. 62 OF 2025

Juned Mustak Pathan

Age: 30 years, Occu.: Labour,

R/o. Bhanwadi, Near Kalika Temple,

Lasur Station, Tq.Gangapur,

Dist.Aurangabad.

....Applicant

Versus

The State of Maharashtra

Through Vaijapur Police Station,

Dist.Aurangabad.

.....Respondent

.....

Advocate for Applicant : Mr. Mohit Rajendra Malpani

APP for Respondent : Mr.N.D.Batule

.....

CORAM : ABHAY S. WAGHWASE, J.

RESERVED ON : 28 FEBRUARY, 2025

PRONOUNCED ON : 03 MARCH, 2025

ORDER :

1. Applicant seeks grant of bail on account of his arrest in crime no.210 of 2023 registered at Vaijapur Police Station, Dist.Aurangabad, for the offence under Sections 302 read with 34 of the Indian Penal Code (IPC).

2. Pointing to the date of arrest as 29-04-2023, learned counsel submitted that applicant is behind bars since approximately two

years. That, investigation is over and chargesheet is filed way back in July 2023. He submitted that there are two accused, who are named in FIR. That, occurrence was sudden and it was not premeditated. That, deceased died due to head injury. He further submitted that charge has already framed in September, 2024 itself but trial has not progressed and as such, it amounts to long incarceration. He further pointed out that other accused is already granted bail and copy of the said order is placed on record.

3. Learned APP opposed on the ground that there is serious charge of committing murder. That, there is direct eye witness account and role of accused, who has given benefit of bail cannot be equated. According to learned APP, the charge is already framed. Therefore, there are bright chances of trial coming soon and is coming to an end.

4. Heard. Perused the papers. FIR dated 28-04-2023 is at the instance of one Sudam P. Harischandre. He has reported that on 27-04-2023, when he had been to water the field, he received a phone call from his friend Sagar Thorat informing that Raju Mustak Pathan and his brother Juned Mustak Pathan i.e. present applicant

are threatening and quarreling in which Informant's brother Krishna was also involved. Informant further claims that he returned from the field and he learnt from his father that Krishna had taken meals and been to the fair and later on it was revealed that he was lying near Pharsi Pool road. Therefore, said spot was visited. He claims that he learnt from brother-in-law of Akshay Thokal namely Ganesh that on 28-04-2024 at around 12:30 p.m. Raju and Juned were sitting near the Pharsi Pool and hence, he reported that, in the backdrop of quarrel, his brother was done to death. Therefore, statement of Sagar Thorat and Ganesh are crucial

Statement of Sagar Bhaginath Thorat seems to be recorded on 03-05-2023 regarding occurrence dated 27-04-2023 even when Sagar is of the same village. He has reported that on 27-04-2023 while he, deceased Krishna and Deva Pravin Sonawane were roaming in the fair, that time they learnt that two boys are threatening shopkeepers and beating them and therefore, they reached there and saw Raju Mustak Pathan and Juned Mustak Pathan beating shop owners and resultantly, Krishna, Deva and this witness questioned both Raju and Juned and thereafter, they had parted. He further reported that at around 11:15 p.m. and 11:30 p.m. again Raju Pathan and Juned Pathan were seen threatening people by showing

belt and therefore, deceased Krishna asked Raju Pathan to go away resulting into verbal exchange of words. This witness has reported that 10-15 boys from the village beat Raju Pathan and Juned Pathan with kick and fist blows. At around 11:45 p.m. this witness, Deva and Krishna used Pharsi Pool to go whom. That, he and Deva were chatting near Arch of a Temple and that time they heard shouts from Pharsi Pool and when they rushed there, he claims that he and Deva had seen Raju Pathan and Juned Pathan giving kick and fist blows to Krishna. That, Raju picked up a stone lying near the bridge and was seen hitting on the head of Krishna. He further claims that on 28-04-2023 Krishna was lying in injured condition in Pharsi Pool. As stated above, inspite of allegedly claims to have seen occurrence in the night of 27-04-2023 and inspite of witness being companion and eye witness to the occurrence, he has reported occurrence to Police on 03-05-2023.

Statement of Deva Pravin Sonawane is also similar in nature and it is also recorded on 03-05-2023.

Statement of Ganesh Gorakhnath Thorat is also recorded, but his statement shows that he has heard from village boys about occurrence dated 27-04-2023.

5. As submitted co-accused Raju Pathan had approached for bail vide Bail Application No.1067 of 2024 and by order dated 07-08-2024 he is granted bail. Present applicant has, therefore, prayed for similar relief on the ground of parity. Another ground for grant of bail is that inspite of chargesheet being filed in July 2023 and inspite of charge being framed in September 2023, there is no progress in the trial. In the light of such submission, this Court had called upon learned APP as well as learned counsel for applicant to place on record "Case Status" and resultantly, the same is placed on record. On going through the "Case Status", it appears that matter is on the file of learned District and Additional Sessions Judge and charge is shown to be framed on 13-09-2024 but thereafter, matter is shown to be "Awaiting Muddemal" on repeated dates and this status "Awaiting Muddemal" is shown to have continued even on 21-02-2025 i.e. till last week.

6. As submitted arrest of applicant is of 29-04-2023 and Co-accused is granted bail. Taking above long incarceration into consideration, relief as prayed deserves to be granted. Hence, the following order :

ORDER

- (i) Bail Application is allowed.
- (ii) Applicant Juned Mustak Pathan be released on bail in connection with Crime no.0210 of 2023 registered with Vaijapur Police Station, Dist.Aurangabad, on executing Personal Bond of Rs.50,000/- with one surety in the like amount on the following conditions :
- (a) He should not tamper prosecution witnesses.
- (b) He should stay away from village Lasurgaon, Tq.Vaijapur, Dist.Aurangabad, for two months from the date of his release.
- (c) He should attend the trial on each and every date.

(ABHAY S. WAGHWASE)
JUDGE