



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO.191 OF 2025

Aslam Chand Shaikh,
Age : 42 years, Occu. : Nil,
R/o. Shani Mandir, Kannad,
Tq. Kannad, Dist. Aurnagaba.

... Applicant.

Versus

The State of Maharashtra,
Through Police Inspector
Kannad City Police Station.

... Respondent

.....
Mr. Satej S. Jadhav, Advocate for Applicant.
Mr. N. D. Batule, APP for Respondent – State.

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CORAM : ABHAY S. WAGHWASE, J.

RESERVED ON : 26 FEBRUARY, 2025

PRONOUNCED ON : 27 FEBRUARY, 2025

ORDER :

1. This is a regular bail application on account of arrest of applicant in Crime No. 0256 of 2024 registered at Kannad City Police Station, Dist. Aurangabad for the offences punishable under sections 103(1), 109, 118-1, 189-2, 191-3, 190, 115-2, 352, 191-2 of the Bharatiya Nyaya Sanhita.

2. Pointing to the date of arrest as 11.10.2024, learned counsel submitted that, FIR dated 21.09.2024 by son of deceased is regarding occurrence of 20.09.2024. He pointed out that, no role is attributed to the present applicant. On this count, he took this

court though the FIR and pointed out that, only six persons are named and though present applicant is named as accused no.6, no role of assault in any manner is attributed to him. Thus, according to him, when charge-sheet is filed in December 2024 itself, his further custodial detention is unwarranted. He pointed out that, deceased died after six days of assault i.e. while undergoing treatment. According to him, alleged incident also has taken place on petty count of driving out live stock. That, there was no premeditation motive. That, incident has erupted all of a sudden. According to learned counsel, applicant is behind bars since one year and there are no immediate prospects of matter going for trial and consequently for such reasons, bail is urged for on any conditions imposed by this court.

3. Learned APP objected on the ground that applicant is named in the FIR. That, informant's father was done to death. Though he has not participated in assault, he was present there. His name is figuring in the statement of eye witnesses also and for above reasons, learned counsel opposes the bail.

4. Heard. Perused the papers. FIR dated 21.09.2024 is at the instance of Sameer Shaikh Iftexhar and he reported police that, on 20.09.2024, he and his father went near ground of Sahara School to look the live stock. He claims that, in the street light, they

spotted Amir Baba and his father Baba, both resident of Samarthnagar, Asad Chand (maternal uncle of Amir), Shafiq Mushtaq Shaikh, Sofian Sameer Qureshi and present applicant, who were driving out the live stock from the ground and when there was question by deceased father, it is alleged that on such count, there was abuse and then beating to both duo i.e. father and informant by means of slaps and fist blows. It is further alleged that while attack was tried to be avoided, Amir, who had stick, hit informant near the ear, head, shoulder, waist and thigh. He further informed that, Asad Chand Shaikh was having sharp sickle like Article *Koyta* and he assaulted his father on the head, as a result of which, his father fell unconscious and was taken to the hospital. On above report, initially, crime was registered for offence punishable under section 109 of BNS (i.e. old section 307 of IPC) and other penal sections.

Father of informant reportedly died while undergoing treatment and therefore charge of murder was included.

5. As submitted, though applicant is named in the FIR, allegations of overt act i.e. beating are directed to Amir and Asad Chand. As submitted, occurrence seems to have erupted for being questioned about driving out the live stock. No overt act is attributed to present applicant, though he is shown to be present

along with other accused. Now, charge-sheet is said to be filed in December 2024 and applicant is shown to be arrested on 11.10.2024. Matter is yet to go for trial and even charge is yet to be framed. When nothing further is shown to be recovered at the instance of present applicant and considering the nature of allegations against him, relief as prayed deserves to be granted. Hence, the following order is passed :-

ORDER

- (i) The application is allowed.
- (ii) Applicant Aslam Chand Shaikh be released on bail in connection with Crime No.0256 of 2024 registered with Kannad City Police Station, Dist. Aurangabad on executing P.B. of Rs.15,000/- with one surety in the like amount.
- (iii) Applicant shall not tamper prosecution evidence.
- (iv) Applicant shall not enter in the vicinity of Mahetabnagar Nagar, Kannad till conclusion of the trial.
- (v) Applicant shall attend the concerned Police Station twice in every week i.e. on every Monday and Thursday between 11.00 a.m. to 2.00 p.m. till commital of the case and thereafter, shall regularly attend each and every effective date before the trial court.

(ABHAY S. WAGHWASE, J.)