



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO. 431 OF 2025

Santosh s/o Bhimrao Solanke
Age : 23 years, Occupation Labour,
R/o. Gayatri Mandir, Old Mandir, Nanded,
Taluka and District Nanded. ... Applicant

Versus

The State of Maharashtra
Through Police Inspector of
Itwara Police Station, Nanded,
Taluka and District Nanded. ... Respondent

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Mr. Moin Pasha Shaikh Farid, Advocate for the Applicant.
Mr. N. D. Batule, APP for Respondent-State.

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CORAM : ABHAY S. WAGHWASE, J.

Reserved on : 26.03.2025

Pronounced on : 27.03.2025

ORDER :

1. Instant application is for enlargement of applicant on regular bail on account of his arrest in crime no. 0345 of 2023 registered at Itwara Police Station, District Nanded for offences punishable under Sections 302, 307, 120(B), 294, 201, 387, 504, 506, 143, 147, 148, 149 of IPC, Sections 4/25, 4/27 of the Arms Act and Section 135 of the Maharashtra Police Act.

2. Pointing to the date of arrest of the applicant as 02.01.2024, learned counsel emphasize that applicant is behind bars since more than one year. That, matter is already committed in February 2024 itself, however charge is not yet framed. He pointed out that there are allegations against 38 persons, amongst whom 8 are said to be minors and they are already released. That, out of remaining 30 accused, as many as 15 are also granted bail. Therefore, according to learned counsel, present applicant is also entitled for being released on the ground of parity.

3. Learned counsel pointed out that moreover, allegations against present applicant are of inflicting injury to injured Monu, and he has not assaulted deceased Sagar. That, injured was discharged on the very next day. That, exaggerated version is given by so-called injured eye witnesses. That, charge sheet is filed and no further recovery and discovery is to be made and as applicant is behind bars since long, learned counsel seeks grant of bail. Learned counsel has placed reliance on the judgment in the case of ***Javed Gulam Nabi Shaikh v. State of Maharashtra and another*** decided by the Hon'ble Supreme Court vide order dated 03.07.2024, i.e. on the point of right to speedy trial.

4. Learned APP opposed on the ground that serious offence is committed. That, there is use of deadly weapons. There are four direct eye witnesses and also statements of injured eye witnesses. That, sword is used to assault on abdomen. Injury certificate of injured as well as postmortem report show that assault was made with sole intention to commit murder. For all above reasons, learned APP opposes bail application.

5. Heard. Perused the FIR dated 07.11.2023 at the instance of one Abhimanyu, who has named almost 23 persons and their associates for committing above crime. He reported that his maternal cousin Sagar conducts business of daily needs and finance. That, on 06.11.2023, his such cousin called him and informed that accused Keshav allegedly threatened him to pay money if at all he is to conduct business. That, around 8.00 p.m., when informant, his such cousin Sagar and uncle's son Monu, after extending birthday greetings to his uncle, were chatting in front of a jeweler's shop, at that time, from the direction of Pratibha Niketan School said Keshav, his brother, nephew and several persons named therein allegedly came on motorcycles and, it is alleged that, Sagar and Monu were caught hold by their collars and were tried to be forcibly taken on motorcycle. When they resisted, it is alleged that, those persons

mounted assault on both, Monu and Sagar, by articles like sword, knife, khanjar and also gave kicks and fist blows. Sagar succumbed at the spot itself, whereas Monu was taken to the hospital. Several persons are named for mounting assault, including present applicant. Present informant was also said to be assaulted. However, as pointed out, it is not emerging from the FIR at least that only role attributed to present applicant is of inflicting injury to Monu and not to deceased. Be it so. Postmortem report shows that deceased suffered as many as 18 wounds, most of which are incise wounds, and cause of death is said to be chop injury to head and stab injuries to abdomen.

6. Applicant, is shown to be arrested in 02.01.2024 and charge sheet is already filed in February 2024. Statement made across the bar by learned counsel, that case is already committed on 20.02.2024 and no charge is framed yet, has not been denied by learned APP. Current status of the matter in trial court is not made known. Applicant is behind bars since long. Fifteen co-accused are said to be released on bail. Therefore, when no further recovery or discovery is shown to be made and when there is uncertainty prevailing over commencement of trial or its conclusion, prayers so made are required to be allowed. Hence, I proceed to pass the following order:

ORDER

- I. The application is allowed.
- II. Applicant be released on bail in connection with Crime No. 0345 of 2023 registered at Itwara Police Station, District Nanded, on executing Personal Bond of Rs. 50,000/- with one surety in the like amount, on the following conditions:
- [a] The applicant shall not tamper prosecution evidence.
- [b] The applicant shall not contact co-accused.
- [c] The applicant shall not enter the vicinity where the applicant resides, till conclusion of trial.
- [d] Till conclusion of trial, the applicant shall not leave the area of jurisdiction of the concerned police station without leave of the trial court.
- [e] The applicant shall attend the concerned police station twice in every month, i.e. on every 1st and 16th day of every month and maintain personal diary of his attendance till trial is concluded.
- [f] The applicant shall furnish proof of his residence and cell number to the police, with an undertaking that he would not change it until the trial is concluded.
- [g] The applicant shall regularly attend each and every effective date before the trial court.

[ABHAY S. WAGHWASE, J.]