



IN THE JUDICATURE OF HIGH COURT AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO. 905 OF 2024

Mahesh @ Ghanshyam Prakash Pawar
@ Jalkya @ Lal Dola @ Sonu
Age : 32 Years, Occu. : Labour,
R/o. Swami Narayan Colony,
Near Market Yard, Dhule,
Tq. & Dist. Dhule.

.... Petitioner

VERSUS

1. The State of Maharashtra
2. Vinayak S/o. Jagan Salunke,
Age : 30 Years, Occu. : Service,
R/o. Navnath Nagar, Near Room No.50,
Abhay College Road, Dhule,
Tq. & Dist. Dhule.
3. The Superintendent of Police,
Dhule, Tq. & Dist. Dhule

.... Respondents

....
Advocate for Petitioner : Mr. Satej S. Jadhav (**Appointed**)
APP for Respondent Nos.1 & 3-State : Mr. A.M. Phule
....

CORAM : SMT. VIBHA KANKANWADI &
SANJAY A. DESHMUKH, JJ.

Dated : 28th March 2025

ORDER [PER SANJAY A. DESHMUKH, J.] :-

1. By this Writ Petition, the petitioner has prayed the following reliefs :

“B) That the charge-sheet filed against the petitioner in Special Case No.95/2024 pending before the Ld. 38-District Judge-1 and Ld. Additional Sessions Judge, Dhule be quashed and set-aside.

C) That the respondent No.3 Superintendent of Police, Dhule may be restrained from lodging further false cases against the petitioner and taking unjust action against him.”

2. The petitioner, on 21.12.2023, sent a letter, through the Dhule District Jail, Dhule, to this Court and averred that he has been falsely implicated/prosecuted in the said crime and the police officers of Dhule Police Station had falsely implicated him in many crimes. He is not having sufficient money to defend those cases. A communication was made on 27.03.2024 to the petitioner by the Registry of this Court that his letter is forwarded to Criminal ‘A’ Branch of this Court for further action. He, therefore, prayed to quash all the crimes registered against him.

3. This Court vide order dated 10.06.2024, appointed learned Advocate Mr. Satej S. Jadhav to represent the petitioner.

4. Respondent No.2/informant is the brother of Shubham Jagan Salunke, who lodged the report against the petitioner and

others, alleging that they, in furtherance of their common intention, assaulted Shubham Salunke brutally, who succumbed to the injuries and thereby committed his murder.

5. The informant averred in the report that his brother viz. Shubham Salunke was working with one businessman Vinod Thorat, resident of Manmad, Dist. Nashik. A quarrel took place between them. Therefore, Shubham closed all the transactions of business with Vinod Thorat. Vinod Thorat was insisting him to work with him. Once Vinod assaulted him and one leg of Shubham was fractured. Accordingly, a report was lodged with the police. That time, Vinod Thorat threatened Shubham that “once I have fractured your hands and legs and if you are not ready to work with me as per my say, I will break down your hands and legs and eliminate you”. The said fact was told by Shubham to the informant.

6. The informant further averred that on 09.10.2023, he got a phone call from one Mr. Darade, police official of Azadnagar Police Station that Shubham is injured and admitted in the Civil Hospital, Dhule. He went with his brother viz. Atish Kadam at Civil Hospital, Dhule. In accident ward of the hospital, he saw that Shubham's eyes were partly closed. He had sustained many injuries and the blood was oozing from those injuries. His entire body was stained with blood.

His both legs were severely fractured. There were injuries to his back and signs of beating on his stomach by a stick, etc. There were cut injuries on his ribs. There were injuries to his face having blood and soil.

7. When he went to meet his brother Shubham and called him, he opened his eyes. The informant supported him mentally and asked him as to what happened ? On his question, Shubham replied that at about 10.45 p.m., he was standing near Gandhi Putla with his friends viz. Shivam Prakash Gore and Sonu Aghav. That time, suddenly, Mahesh Pawar @ Lal Dola i.e. the petitioner, along with Akshay Salve, Ganesh Mali, Bhushan Wadekar, Jagdish Choudhari, Sharad, Ganesh Patil, Jibhya (full name not known) and other two to three persons came there with their motorcycles having sickles and sticks in their hands. They abused Shubham, surrounded him and started to beat him by fist and kick blows. They hurled abuses that “Bhadkhau, come with us, today you are going to be murdered”. That time, he ran towards the square. They chased, dragged and beaten him by fist and kick blows. The petitioner threatened him on the point of sickle and made him sit on one motorcycle. They proceeded towards Varkheddi Road, Dumping Ground. When they reached there, the petitioner said to him that “you are not listening to Vinod Thorat

and are not ready to work with him, have you become a big don ?” and made him fall down. The petitioner and one Sharad from Nashik beaten him and assaulted him by sickle on his back and ribs. Jagdish Chaudhary also beaten him by fight. Others also beaten him by iron rods and sticks. They caused many injuries to his legs. He screamed for help, but nobody turned to help him. After sometime, the police went there and admitted him to the hospital.

8. The informant further averred that, in the morning, he went to Shivam Gore, who was present at the time of incident. Shivam Gore told him that two months ago, the petitioner pelted stones on a rented room where Shubham was residing. The owner of that house viz. Mr. Prabhakar Patil was residing at Surat. On 08.10.2023, at about 07.00 p.m., Shubham got phone call from Mr. Prabhakar Patil and he called him at Data Sarkar Mangal Karyalaya, Swaminarayan Colony. Those three persons gathered at Data Sarkar Mangal Karyalaya. They met with Mr. Prabhakar Patil. That time, Mr. Prabhakar Patil questioned the Beer Shop owner as to who pelted the stones on his house. That time, Ganesh Mali and Jagdish Choudhary were present there and on the count of pelted stones, a quarrel took place there. It was compromised. Therefore, they all went to Rajendra Surinagar for drinking Soda.

9. The informant further averred that, Shivam Gore told him that after sometime, the petitioner and his friend Sharad came there. Quarrel took place between Mr. Prabhakar Patil and the petitioner. They beaten each other. He, Shubham and Sonu Aghav left that place and came into Nehru Chowk for eating eggs. Thereafter, at around 10.30 p.m., they reached at Gandhi Putla area. That time, the petitioner made phone call to Shubham and asked him to come at Gandhi Putla area for compromising the matter. The petitioner and his friends as stated above came there. They were having sickle, fighter, iron rod. They started to abuse Shubham. After seeing their aggressive attitude, Shubham got frightened and ran away towards the square. They caught hold of Shubham. He tried to rescue Shubham, but these persons jolted him. That time, Ganesh Mali assaulted Shubham by sharp weapon on his hip joint and backside of the left ear. They all beaten him and took him on the motorcycle forcefully. That time, the petitioner said that he is known by name *Lal Dola*, and not to invite enmity with him otherwise he will kill Shubham and nobody can do anything to him. After sometime, police vehicle came there. They went to the house of the petitioner to search Shubham, but Shubham was not found.

10. The informant further averred that on 09.10.2023, at 12.05 a.m., Shubham succumbed to the injuries. He was shocked by his death. Therefore, he could not immediately lodge the report about the incident dated 08.10.2023, which took place at 10.45 p.m. He lodged the report on 09.10.2023 at about 19.01 Hrs.

11. Learned Advocate for the petitioner submitted that the petitioner is falsely implicated in the crime. Police are harassing him unnecessarily. He is frequently prosecuted in many crimes. He had never committed such crimes. If he is compelled to face the trial, it would certainly be an abuse of process of Court and cause injustice to him. He, therefore, prayed to quash the report and charge-sheet.

12. Learned Advocate for the petitioner further submitted that the petitioner is falsely implicated in many crimes. Therefore, it is necessary to restrain the Superintendent of Police, Dist. Dhule from lodging false report against the petitioner and restrain them to take unjust criminal actions against him.

13. Learned APP for the State strongly opposed the petition and submitted that the petitioner is involved in the serious crime of murder of Shubham Salunke. Number of cases are pending against him. He is habitual offender. There is strong evidence of CCTV

footage against the petitioner. There are eyewitnesses who have stated in their statements that the petitioner has played vital role in commission of the said crime. It is lastly prayed to dismiss the petition.

14. We have perused the report and charge-sheet, particularly the memorandum panchanama, recovery panchanama of weapons seized at the instance of this petitioner, statements of witnesses and post mortem report of deceased Shubham Salunke, etc. The chronology of events that took place with Shubham is stated by the informant in the report and the eye witnesses in their statements. Part of the incident took place in the presence of witness Ganesh and part in the presence of other witnesses also. The petitioner is booked for serious crime of murder. The overt act of the petitioner is establishing from strong evidence of eye witnesses against him and other co-accused. Therefore, it is not a fit case to quash the charge-sheet by exercising our inherent powers under Section 482 of the Code of Criminal Procedure, 1973.

15. As far as relief clause 'C' is concerned, such type of relief restraining the police officials from taking unjust criminal action cannot be granted. The Writ Petition for such relief is not maintainable, which amounts to prohibitory injunction.

16. Considering all the above reasons and role of the petitioner in the crime, we are of the view that the charge-sheet and the case pending against the petitioner under Section 302 of the Indian Penal Code bearing Special Case No.95 of 2024 cannot be quashed as it would not be an abuse of process of Court and no such directions can be given to respondent No.3 to not lodge the report against the petitioner, which amounts to prohibitory injunction. The Writ Petition, sans merit, therefore, it deserves to be dismissed. Hence, the following order.

ORDER

The Writ Petition stands dismissed.

17. Since Mr. Satej S. Jadhav is appointed to represent the cause of the petitioner, we quantify his legal fees and expenses at Rs.10,000/- (Rupees Ten Thousand Only) to be paid by the High Court Legal Services Sub-Committee, Aurangabad.

[SANJAY A. DESHMUKH]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE