



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO. 1932 OF 2024
WITH
CRIMINAL APPLICATION NO. 4543 OF 2024

Manoj Nanasaheb Bhalekar,
Age : 32 years, Occu. : Agri.,
R/o. Nipani, Tq. & Dist. Aurangabad ... Applicants

Versus

The State of Maharashtra ... Respondent.

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Mr. Satej S. Jadhav, Advocate for Applicant.
Mr. C. V. Bhadane, APP for Respondent - State.
Mr. P. P. More, Advocate for Applicant-Informant in APPLN/4543/
2024 (Assist to APP).

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CORAM : ABHAY S. WAGHWASE, J.
RESERVED ON : 25 APRIL 2025
PRONOUNCED ON : 29 APRIL 2025

ORDER :

1. Instant regular bail application arises out of Crime No. 0269 of 2023 registered at Chikalthana Police Station, District Aurangabad for offence punishable under sections 143, 147, 148, 149, 302, 307, 324, 323, 504 and 427 of Indian Penal Code (IPC).
2. Criminal Application No. 4543 of 2024 is allowed. The original informant is permitted to assist the learned A.P.P.
3. At the outset, learned counsel pointed out that, present

application is successive bail application as previous applications were turned down. He would submitted that, applicant is arrested in above crime on 06.07.2023 and he is behind bars since more than one and half year. He claims that, recently it was learnt that, Investigating Officer had collected CCTV footage of GHATI hospital, and therefore, as same was not supplied to applicant, he was required to apply for handing over copy to him and learned trial court by order dated 10.06.2024 directed Investigating Officer to supply the copy of CCTV footage dated 05.07.2023. That, panchanama of contents of CCTV footages are drawn, which clearly show that present applicant was in the GHATI premises along with his friend in connection with treatment of friend, who had allegedly consumed poison. Therefore, there is a *plea of alibi* available to the applicant. Now, investigation is over and charge sheet is filed way back in September 2023 itself. He pointed out that for almost more than one and half year applicant is behind bars. That, trial is proceeding as snail pace and therefore on the ground of long pre-trial incarceration, he urges for grant of bail

4. Learned APP opposed on the ground that serious offence is committed. That, applicant has criminal antecedents. That, deceased suffered brutal attack and as many as 11 to 12 injuries are inflicted. That, role is also crystallized in the statement of witnesses. That, there are eye witness account and in view of serious crime

being committed and trial being at the stage of evidence, learned APP opposes for grant of bail.

5. Learned counsel for informant also opposed by pointing out that present application is successive bail application. That, matter had traveled up to Hon'ble Apex Court and relief was refused. Copy of the same is also placed on record. He further pointed out that, there are four eye witnesses to the alleged occurrence, out of them Bhaskar and Santosh, who are injured. Supplementary statement of informant finds name of present applicant. That, their statements under sections 161 and 164 are consistent. He further pointed out that, overt act is clearly attributed in the FIR. That, there is recovery of blood stained clothes and he also emphasized about criminal antecedents of applicant by pointing out that three crimes are registered against him. For all above reasons, he too opposes bail application.

6. Heard. Perused the FIR. FIR is at the instance of one Ratnakar Keshavrao Hiwale. He reported that on 05.07.2023, it being his birthday, he, one Santosh Haribhau Hiwale, Ramchandra Narayan Hiwale, Vaibhav Ratnakar Hiwale, Bhaskar Kaduba Uddange, Sangar Ashok Gayke and Datta Khaire went to celebrate birthday at Hotel Kartiki, Pandhari Pimpalgaon and after taking

meals, while they were returning at around 10:15 p.m., near Nipani Phata their vehicle was suddenly intercepted and therefore Sagar questioned the said vehicle driver, resulting into heated exchange of words. While they were further proceedings towards Aurangabad in Maruti S-cross, one person smashed rear glass of their vehicle and so vehicle was halted. It is reported that, at that time, Sagar questioned incumbents of the S-cross vehicle, namely Manoj Bhalekar, that time Mukund Bhalekar, Rameshwar Gaware, Vikas Ghodke and one unknown person alighted, questioned and hurled abuses on filthy language. That time, Rameshwar Gaware stabbed Sagar Gayke with knife, Ramchandra Hiwale on waist and ear and attempted to commit murder. That time, Manoj Bhalekaer (present applicant), Mukund Bhalekaer, Vikas Ghodke assaulted Santosh Hiwale and Bhaskar Uddange by means of iron rod, whereas unknown person gave fist blows to informant, Datta Khaire and Vaibhav Hiwale. Hence, the above report, resulting into registration of crime bearing no.0269 of 2023.

7. Papers placed on record show that, present applicant was beneficiary of bail at the hands of learned Additional Sessions Judge dated 18.04.2022, however such order seems to have been taken exception to by both State as well as informant by filing application for cancellation of Bail bearing No. 83 of 2022. This court vide order

dated 08.08.2023 cancelled above order which was in favour of present applicant passed by learned Additional Sessions Judge in Bail Application No.634 of 2022.

Papers placed on record further show that order dated 13.02.2024 of this court rejecting bail of present applicant and co-accused, was questioned by co-accused Vijay, against whom there are similar allegations, before Hon'ble Apex Court in S.L.P. (Cri.) Diary No.56433 of 2024 and the same was dismissed by order dated 03.01.2025.

8. Now, present application admittedly is successive bail application and the fundamental ground pressed into service is long incarceration and no possibility of trial coming to an end.

9. This court in view of above ground of long incarceration has called report from the learned trial Judge to report current status, proposed calendar and approximately how much time learned trial Judge would require for conclusion of trial. Report dated 22.04.2025 is received by this court, wherein, learned trial Judge has enumerated the stages through which Sessions Case No. 620 of 2023 passed i.e. said case being transferred to learned Judge on 13.09.2024 and matter was posted for arguments on bail application filed by accused no.1 vide Exh.34 and the same was decided on

19.09.2024. Thereafter, learned Judge has reported about discharge application filed by accused no.5 (Exh.27) being posted for arguments, wherein said accused allegedly sought 2 to 3 adjournments and finally it was decided on 05.12.2024 and on the same day, charge was framed against accused Nos.1 to 4. Thus, charge is apparently framed in December 2024. From the report, it emerges that, on 07.04.2025 Special P.P. Shri S. P. Mundwadkar caused appearance and tendered documents, however, accused had not filed say over it and matter was posted on 22.04.2025, but learned counsel for accused had remained absent. Even accused were not produced from the jail and next date is 30.04.2025 i.e. in next week itself. Learned trial court has also conveyed that, trial court would take its own time for conclusion and that no specific time can be given. However, learned trial Judge undertook to make sincere efforts in view of accused persons to be in jail. It is further reported that accused are tendering applications and are not filing say on the application tendered for admission of documents as per section 330 of B.N.S.S.

10. Thus, what is emerging from above report of learned trial Judge is that charge is framed on 05.12.2024. In spite of prosecution tendering application on 07.04.2025 under section 330 of B.N.S.S., say of accused has not been given. Therefore, prosecution cannot be

solely blamed for slow progress of trial. Even otherwise in view of undertaking by learned trial Judge that it would make sincere effort to conclude the trial and that accused are preferring application for bail, discharge and are surprisingly refraining from tendering say on the application under section 330 of B.N.S.S, this court is not inclined to extend benefit on the ground of long pre-trial incarceration. Hence, the following order is passed :-

ORDER

The bail application stands rejected.

(ABHAY S. WAGHWASE, J.)