



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO. 2065 OF 2024

Sanjiv @ Chakulya s/o Satish Parekar

Age : 22 years, Occ. Labour,

R/o Shankar Nagar, Nanded,

Taluka and District Nanded.

... Applicant

[Orig. Accused]

Versus

The State of Maharashtra

Through Police Station Officer,

Nanded Rural Police Station,

Nanded, Taluka and District Nanded.

... Respondent

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Mr. S. S. Gangakhedkar, Advocate for the Applicant.

Mr. S. B. Narwade, APP for the Respondent-State.

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CORAM : ABHAY S. WAGHWASE, J.

Reserved on : 21.02.2025

Pronounced on : 24.02.2025

ORDER :

1. Applicant seeks grant of regular bail on account of his arrest in crime no. 0551 of 2023 registered with Nanded Rural Police Station, District Nanded for offence punishable under Sections 302, 307, 449, 452 r/w 34 of IPC and Sections 4/25 and 4/27 fo the Arms Act.

2. Learned counsel for the applicant pointed out that applicant is arrested on 01.08.2023 in above crime which is registered on 30.07.2023. He further pointed out that investigation is over and

charge sheet is already filed on 27.10.2023 itself. He further pointed out that, out of three accused, the accused against whom there are main allegations, is already granted bail by this Court. That, there are allegations that applicant inflicted injury on hands and shoulder of informant. Learned counsel took this Court through the injury certificate and would submit that out of six injuries, four are attributable to main accused. That, moreover, allegations against applicant are of assault on the informant and not on the deceased, and hence he is arrested on the charge of committing offence under Section 307 of IPC. Thus, according to learned counsel, when applicant is behind the bars since more than one and half years and nothing is shown to be recovered or discovered at his instance, he seeks bail on merits as well as parity.

3. Learned APP opposes on the ground that deadly weapon has been used. That, accused persons came armed which shows that occurrence was premeditated. That, one person has lost his life. He pointed out that blood stained clothes as well as blood stained dagger is seized at the instance of the applicant and therefore, applicant having found involved in committing serious offence, learned APP opposes the relief of bail.

4. Heard. Perused the FIR. It seems to be at the instance of one Mangesh Tokalwar, who himself is injured and he, while undergoing treatment, has reported that on 29.07.2023, while he and his friend Aniket (deceased) were consuming liquor in the house of one Vinod Shastri, accused Ajay and present applicant both came armed with sword. It is reported that two years back, informant had beaten said Ajay for teasing informant's maternal cousin. In revenge to that, it is alleged that, Ajay attempted a blow of sword on the informant's head, however said blow was warded off by catching the sword with hands. Then he alleges that present applicant also used the sword and caused him injury.

5. Thus, on his above report, crime was registered against said Ajay, present applicant and one unknown person for offence under Sections 307 r/w 34 of IPC as well as Section 4/25 of the Arms Act. However, as another injured Aniket succumbed to injuries during treatment, offence of 302 IPC came to be added.

6. Present application is primarily on the ground of parity. Learned counsel has taken this Court through the order of this Court dated 19.06.2024 moved by co-accused Deepak Thakur. However, this Court in the said order granted bail to Deepak on the ground that

his name had cropped up in the supplementary statement and that, FIR was against two unknown persons. Injury certificate is also placed on record. Informant seems to have suffered six incise wounds but, as pointed out, injuries are certified to be simple in nature. Article allegedly used is already said to be seized. Investigation is over and charge sheet is shown to be filed in October 2023 itself. As to what is the stage of the matter is not made known to this Court. Learned APP has not pointed out as to what stage has been achieved by the above case after its committal. When there is no progress shown by way of even framing charge, taking into account the long incarceration of more than one and half years, and when no further recovery or discovery is shown to be made at the instance of the applicant, application deserves to be allowed. Hence, I proceed to pass the following order:

ORDER

- I. The application is allowed.
- II. Applicant Sanjiv @ Chakulya s/o Satish Parekar, be released on bail in connection with Crime No. 0551 of 2023 registered with Nanded Rural Police Station, District Nanded, on executing Personal Bond of Rs. 15,000/- with one surety in the like amount, on the following conditions:

[a] The applicant shall not tamper prosecution evidence.

[b] The applicant shall not enter Shankarnagar, Vasarni, District Nanded till conclusion of trial.

[c] The applicant shall attend each and every effective date before the trial court.

[d] The applicant shall attend the concerned police station once in every week i.e. on every Monday between 11.00 a.m. to 02.00 p.m. till conclusion of the trial.

[ABHAY S. WAGHWASE, J.]

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