



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

BAIL APPLICATION NO.2134 OF 2024

Shaharukh S/o Shafik Pathan
Age: 31 years, Occu.: Labour
R/o. Nagapur, Tq. Parli (V),
District Beed

... Applicant

Versus

The State of Maharashtra
Through Sambhaji Nagar Police Station,
Parli (V), Rq. Parli (V.), Dist. Beed.

... Respondent

.....
Mr. Irfan D. Maniyar, Advocate for Applicant
Ms. Vaishali S. Choudhari, APP for Respondent – State
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CORAM : ABHAY S. WAGHWASE, J.

RESERVED ON : 04 FEBRUARY 2025

PRONOUNCED ON : 05 FEBRUARY 2025

ORDER :

1. Applicant seeks grant of regular bail on account of arrest of his in Crime No.0105 of 2023 registered at Sambhaji Nagar Police Station, District Beed for offences punishable under Sections 302, 307, 341, 143, 147, 148, 149 of the Indian Penal Code (IPC) and Section 135 of the Maharashtra Police Act.

2. Learned counsel for the applicant pointed out that applicant is arrested in above crime on 20.07.2023 and he is behind bars since then. That, investigation is over, and charge-sheet is already filed. However, till

today, charges are yet not framed, and there is uncertainty about framing of charges as well as matter going for trial. He pointed out that co-accused has been released by this Court. That, present applicant is shown as accused No.2. He further pointed out that, there are only allegations against one accused about hitting by means spade. That, now charge-sheet is already filed in October, 2023, and when nothing is to be recovered or discovered at the instance of applicant, hence learned counsel seeks grant of regular bail.

3. Learned APP, who opposed the above application, pointed out that, applicant is arrested in a serious crime of murder. That, the present applicant, his father and brother have assaulted the deceased on the ground of previous enmity. That, role of applicant is clearly defined in use of deadly weapon. According to learned APP, there is both intention as well as knowledge. That, there is an eyewitness account, with such material, learned APP seeks rejection of application.

4. Heard both the sides. Perused the papers. FIR dated 22.06.2023 seems to be registered at the instance of one Sameer Allauddin Shaikh, and he has reported that, his father runs a pan stall, and since 2 to 3 years back, his father had quarrel with Shafik Pathan and since then there were threats from their side. He reported that, on 22.06.2023, his family members, his maternal cousin and his family members attended the marriage. While returning from the marriage, there was some verbal

exchange or words, and at that time, Maheboob Pathana allegedly issued threats. He further reported that, when he and his father were going on motorcycle, at that time, near Gangasagarnagar, Maheboob Pathan, Shafiq Pathan, Shahrukh Pathan, Taufique Pathan, Salman Pathan came armed with sword and sickle. It is reported that Maheboob Pathan assaulted his father with sword and rest of the accused i.e. Taufique Pathan and Suraj Pathan and Salman Pathan, who were also armed assaulted his father. He has alleged that, present applicant also raised sickle to assault him, but the said blow was warded off. His father Allauddin succumbed to the injuries. On above report, On above report, crime seems to have been registered.

5. Now, ground of parity has been pressed into service stating that, other accused namely Suraj Pathan and Taufique Pathan, are the beneficiaries of regular bail at the hand of this Court vide orders dated 20.08.2024 and 17.10.2024 respectively. This Court had appreciated the papers placed before it and noticed that there is variance in the station of informant in FIR as well as statement recorded under Section 164 of the Code of Criminal Procedure. On such count, applicants Suraj and Taufiq stood beneficiaries of regular bail. However, as pointed out by learned APP, it is reported that the present applicant had used sickle (कोयता) in giving blow, but that was reported to be warded off. Now, ground of parity has been urged to be applied on account of grant of bail to Suaraj and Taufique.

However, as regards to the present applicant is concerned, in both FIR as well as in Statement under Section 164, role attributed to the present applicant is of use of the sickle. It *prima facie* reflects intention. Therefore, there being consistency in the FIR as well as statement recorded under Section 164, it is not open for applicant to seek parity. Considering the distinct role attributed to the present applicant, this Court is not inclined to grant bail at this stage. Hence, the following order :

ORDER

The application is rejected.

**ABHAY S. WAGHWASE,
JUDGE**

S P Rane