



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO. 2229 OF 2024

Avinash Shamlal Gupta

Age : 35 years, Occupation : Labour,

R/o Aklud, Taluka Yawal, District Jalgaon.

... Applicant

Versus

The State of Maharashtra

(At the instance of Faijpur P.S.,

District Jalgaon)

... Respondent

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Mr. A. K. Bhosle, Advocate for the Applicant.

Mr. V. M. Chate, APP for Respondent-State.

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CORAM : ABHAY S. WAGHWASE, J.

Reserved on : 04.04.2025

Pronounced on : 08.04.2025

ORDER :

1. Applicant seeks enlargement on regular bail on account of his arrest in crime no. 0024 of 2023 registered at Faizpur Police Station, District Jalgaon for offences punishable under Sections 302, 307, 341, 337, 323, 504, 506, 143, 147, 148, 149 of IPC.

2. Pointing to the date of arrest of applicant as 22.03.2023, learned counsel submitted that he is behind bars since more than two years. That, instant application is successive bail application. That, regarding occurrence of 21.02.2023, report is lodged on 22.02.2023. That, there are allegations of assault by knife against three persons.

That, incident is sudden and there was no premeditation. Investigation is over and charge sheet is filed in May 2023, however still, even charge has not been framed and so, trial has also not commenced. For above reasons, learned counsel prays for enlargement on regular bail.

3. Learned APP strongly opposed on the ground that applicant is prime accused. Allegations against him are of stabbing in chest. There is direct eye witness account. Statements under Sections 161 and 164 of Cr.P.C. are consistent. Learned APP pointed out that, applicant is filing various bail applications before trial court and also preferring discharge applications one by one, and therefore learned trial court is not in a position to frame charge and prosecution cannot be blamed. Moreover, according to him, serious offence of murder, attempt to murder has been committed after giving chase. Therefore, learned APP strongly opposes.

4. Heard. Perused the papers. FIR dated 22.02.2023 is at the instance of one Mukesh Tayade, who reported Faizpur Police that, on 21.02.2023, he and his associate Shubham Sapkale were proceeding on Scooty to go to Aklud. That, in the backdrop of previous quarrel, they were obstructed by Santosh Gupta, Avinash Gupta (present

applicant), one Bhola, Chakrya and father of applicant, namely Shamlal. Initially, stones were hurled on them and when they tried to flee, it is alleged that, they were given chase by present applicant, Bhola, Chakrya and Sagar, and after intercepting their vehicle, it is alleged that, they were questioned for quarrel day before yesterday. When Shubham alighted from the vehicle, it is alleged that, present applicant stabbed him in the chest by means of knife. Thereafter, Sagar took knife from present applicant and he stabbed Shubham in the back. Bhola inflicted knife blow on abdomen of Shubham. Informant claimed that, while assaulting Shubham, assailants uttered that he should be spared alive, and even issued threats to shop owners to not to inform police.

5. Police papers show that, initially Shubham was treated in private hospital and MLC certificate shows that he had suffered as many as seven to eight injuries in abdomen, chest etc. Apparently, informant is an eye witness.

6. Now, charge sheet is said to be filed in May 2023 and ground for bail pressed into service is that, applicant is behind bars since more than two years, but trial has not commenced yet.

7. This court has called report of learned trial Judge who is seized with the matter, and the same is received on 01.04.2025 conveying that, out of five, four accused are chargesheeted. Accused Shamlal is said to be absconding and therefore proceedings under Section 299 Cr.P.C. are undertaken. Apart from conveying bail application being preferred, learned trial court has conveyed that absconding accused Shamlal had preferred anticipatory bail application and accused Santosh had preferred application for discharge in November 2024 and prosecution has not answered the same and as such, said application is pending. It is further conveyed that, on many dates, accused nos. 2 to 4, who are on bail, have sought exemption. Present applicant is also not produced from jail and because of absence of some of the accused, matter is pending in the court.

8. Therefore, taking the above report into consideration, prosecution cannot be entirely blamed. Discharge application by accused no. 4 Santosh is filed in November 2024. However, all accused, who are chargesheeted, need to cooperate for answering charge to enable learned Judge to proceed with the trial. Taking the above discussion and nature of allegations into consideration, though charge sheet is filed, this Court is not inclined to grant bail. However, if the charge is not framed within next six months, applicant shall be

at liberty to move afresh for bail before this Court. Hence, I proceed to pass the following order :

ORDER

The application is dismissed.

[ABHAY S. WAGHWASE, J.]

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