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

BAIL APPLICATION NO. 2252 OF 2024

Malhari @ Raghunath Bansi Alhat
Age – 42 years, Occupation – Agriculture,
R/o. Pimpalgaon Ujayni,
Tq. Nagar, Dist. Ahmednagar. ... Applicant

Versus

1. The State of Maharashtra
Through Officer In Charge-sheet
Police Station MIDC Ahmednagar
Dist. Ahmednagar.
2. The Superintendent of Police
Ahmednagar, Dist. Ahmednagar ... Respondents

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Mr. S.E. Shekade, Advocate for Applicant
Mr. V.M. Jaware, APP for Respondents No.1 and 2
.....

CORAM : ABHAY S. WAGHWASE, J.
RESERVED ON : 14 FEBRUARY 2025
PRONOUNCED ON : 17 FEBRUARY 2025

PER COURT :-

1. Applicant seeks grant of regular bail on account of his arrest in Crime No.0330 of 2021, registered at MIDC Police Station, Ahmednagar for offences punishable under Sections 302, 143, 144, 147, 148, 149, 323, 504, 506 of the Indian Penal Code (IPC) and under Section 4/25 of the Arms Act.

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2. Pointing to the date of arrest as 28.05.2021, learned counsel submitted that, crime is registered on 25.05.2021. That, applicant is thus behind the bars since more than three years. He submitted that, there was free fight resulting into cross complaints between two groups. That, incident was not premeditated, rather it was sudden occurrence. That, there are allegations that applicant used sword in assaulting deceased Sharad. That, whatever was to be recovered is already recovered. Learned counsel pointed out that, incident took place on a previous minor quarrel. That, learned trial Court, while rejecting bail application Exhibit 29, observed that charge is already framed, and if, within six months, the witnesses are not examined, fresh bail application of applicant could be entertained. However, in spite of so, as there was no progress in trial, and therefore, again application was preferred at Exhibit 48, but the same stood rejected. That, since more than three years, there is no progress in the matter, and as there is long incarceration, he seeks enlargement on regular bail.

3. Learned APP opposed on the ground that, previous attempt of bail was futile, when this Court, after hearing the applicant, expressed its disinclination, and therefore, application

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was withdrawn. He pointed out that there is an eyewitness account. Thus, there is direct evidence. He pointed out that applicant had allegedly brought sword and used it in assaulting the deceased. That, blows of sword were given including abdominal part. That, recovery of sword is at his instance, and therefore, learned APP seeks rejection with such quality of evidence, and lastly, pointed out that matter is getting dragged only because of applicant.

4. Before advertng to the merits, here, in this matter, this Court had, after hearing learned counsel on previous date, taking into consideration the order of the trial Court, date of registration, date of filing of charge-sheet, called report from the learned trial Court, who is seized with the matter. Now, this Court is in receipt of report from learned District Judge-2 and Additional Sessions Judge, Ahmednagar dated 04.02.2025, expressing that tentatively at least six more months would be required to conclude the trial.

4. On merits, if papers placed on record to be considered, it seems that after registration of crime, applicant approached the learned Additional Sessions Judge, but application was rejected and therefore, he had approached this Court. However,

this Court by order dated 26.08.2022, expressed disinclination to grant relief, and therefore, the said application was withdrawn. In view of previous order of learned Additional Sessions Judge, fresh application seems to have been moved on 25.09.2024, but the same is rejected, and hence, again present application is pressed into service. Very ground of challenge is that applicant is behind bars since almost four years and trial is not getting concluded and therefore, it amounts to long incarceration. As regards to FIR and statements of witnesses namely Mahesh, Navnath, Nivrutti and Shankar, they seem to be an eyewitnesses. Learned trial Judge in the report dated 04.02.2025 has stated that, matter is for hearing, and C.A. report is awaited, and that tentatively at least further six more months would be required to conclude the trial. Taking into consideration the contents of the FIR and four years long incarceration, and when trial Court itself has opined that at least six more months would be required to conclude the trial, though there are direct eye witnesses and in view of free fight resulting into cross complaints, application deserves to be allowed. Hence, the following order:

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ORDER

- (i) Application is allowed.
- (ii) Applicant Malhari @ Raghunath Bansi Alhat be released on bail in connection with Crime no.0330 of 2021 registered with MIDC Police Station, Ahmednagar, on executing Personal Bond of Rs.15,000/- with one surety in the like amount on following conditions:
 - (a) Applicant shall not enter in the vicinity Pimpalgaon Ujayni, District Ahmednagar till conclusion of the trial.
 - (b) Applicant shall attend the concerned police station once in a week on every Monday between 10.00 a.m. and 02.00 p.m.
- (iii) Applicant shall not tamper prosecution evidence.

**ABHAY S. WAGHWASE,
JUDGE**