



{1}

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

BAIL APPLICATION NO.2300 OF 2024

Gitaram S/o Bhaskar Kirtishahi
Age: 49 years, Occu.: Private Service,
R/o. House No.4, Near Gadiya Vihar,
Priyadharshani Indira Nagar,
Garkheda Parisar, Tq. & Dist. Aurangabad ... Applicant

Versus

The State of Maharashtra
(Through Police Inspector,
Jawahar Nagar Police Station,
Tq. & Dist. Aurangabad) ... Respondent

.....
Mr. Satej S. Jadhav, Advocate for Applicant
Mr. P.K. Lakhotiya, APP for Respondent - State
.....

CORAM : ABHAY S. WAGHWASE, J.
RESERVED ON : 18 FEBRUARY 2025
PRONOUNCED ON : 20 FEBRUARY 2025

PER COURT :-

1. This is regular bail application at the instance of applicant on account of his arrest in Crime No.205 of 2024, registered at Jawahar Nagar Police Station, Tq. & District Aurangabad for offences under Sections 103(1), 109(1), 249, 263, 238, 352, 49, 54, 3(5) of Bharatiya Nyaya Sanhita, 2023 (BNS).

{2}

2. Learned counsel for the applicant pointed out that, initially crime was registered for offence punishable under Section 109 (1) of BNS. That, subsequently, after demise of injured, crime is converted to Section 103(1) of BNS. That, allegations of stabbing are levelled against one Appasaheb Kirtishahi. That, applicant was merely standing there, and no overtact is attributed to him. Learned counsel pointed out that, in fact, alleged incident had taken place right in front of informant's own house, and therefore, his presence there is quite natural. Learned counsel pointed out that, there are no allegations that, applicant knew that main accused Appasaheb was intending to commit above crime. That, initially, applicant was beneficiary of anticipatory bail. That, going by the nature of allegations, and when no further recovery or discovery is shown to be made at the instance of applicant, learned counsel seeks relief of bail on imposing any conditions deemed fit by this Court.

3. Learned APP, at the outset, admitted that there is no overtact attributed to applicant, but according to him, applicant was very much present there. Going by the backdrop in which the incident took place, he was aware and was in touch with main accused. There is material to that extent in the statement

{3}

of injured as well as eye witnesses, whose statements are recorded both under sections 180 and 183 of BNS. For such reasons, learned APP opposes the relief of regular bail.

4. Heard. Perused the FIR dated 15.07.2024 at the instance of Murlidhar Salunke, who had reported police that, on 14.07.2024, when his son Amit went out of the house for a walk at around 10:45 p.m., at that time, his son's father-in-law Gitram i.e. present applicant and cousin brother-in-law Appasaheb, in the backdrop of performing inter-caste marriage, at the instance of Gitram, Appasaheb stabbed his son and attempted to kill him. On above report, crime seems to have been registered. Very statement of injured Amit is already recorded in the form of dying declaration. In the said dying declaration also, occurrence is narrated and allegations are attributed against Appasaheb, whereas, applicant is shown to be present at the spot. Therefore, when overtact is apparently attributed to non-applicant Appasaheb, and no allegations of any overtact and or role against applicant, and when nothing is shown to be further recovered or discovered at his instance, applicant deserves relief of as prayed. Hence, the following order.

{4}

ORDER

- (i) The application is allowed.
- (ii) Applicant Gitaram S/o Bhaskar Kirtishahi be released on bail in connection with Crime No.205 of 2024 registered at Jawahar Nagar Police Station, Tq & Dist. Aurangabad, on executing Personal Bond of Rs. 15,000/- with one surety in the like amount on following condition:
 - (a) Applicant shall not enter in the vicinity of Aurangabad City, till conclusion of trial, except attending the dates before the trial Court.
- (iii) The applicant shall not tamper prosecution evidence.

**ABHAY S. WAGHWASE,
JUDGE**

S P Rane