



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

931 BAIL APPLICATION NO. 2396 OF 2024

SUDAM MANSUB JAGDALE

VERSUS

THE STATE OF MAHARASHTRA

...

**Advocate for Applicant : Mr. Shaikh Kayyum Najir, Gaike
Abasaheb Macchindra**

APP for Respondent-State : Mr. N. B. Patil

...

CORAM : ARUN R. PEDNEKER, J.

DATE : 24.01.2025

P.C. :

1] Heard learned counsel for the applicant and the learned APP for the respondent-State.

2] The applicant is seeking bail as he was arrested in connection with Crime No. 0408 of 2024, dated 13.11.2024, registered with Shivur Police Station, Tq. Vaijapur, District Aurangabad, for the offences punishable under sections 109, 115, 3(5) of Bharatiya Nyaya Sanhita, 2023.

3] The learned counsel for the applicant submits that the F.I.R is registered after five days and the case put up by the prosecution is improbable. The learned counsel submits that the depth of the well is 40 feet and the water

level in the well at the relevant time was about 5 feet and it is difficult to believe that the applicants have not suffered any injury during the incident of scuffle, and thereafter the informant and his father were thrown in the well and the informant was reportedly unconscious for some time.

4] The learned counsel submits that considering the nature of injuries sustained by the father of the informant, it is very difficult to accept the prosecution story. He further submits that there is prior enmity between the parties and prior to this incident, the F.I.R was registered by the wife of the applicant against the informant and his family members. Considering the same, the case of the false implication of the applicant cannot be ruled out.

5] The learned APP submits that the statement of Kailas, Deepak, Kantabai, Somnath Arbaj, indicate that the father of the informant was in the well and was removed from the well. Considering the depth of the well and the injuries suffered by the injured, the prayer of applicant needs to be rejected.

6] *Prima facie*, the minor simple injury sustained by the informant and his father creates a doubt on the truthfulness in the story put up by the prosecution. Considering that the applicant is behind bars since 18.12.2024, nature of the injuries sustained by the injured

are simple and the prosecution case is doubtful as no drowning symptoms are noticed on the informant and his father. The F.I.R. is delayed by five days and there is prior enmity between parties. Thus I deem it appropriate to grant relief in favour of the applicant.

7] In view of the above, the application is allowed in the following terms :

a] The applicant shall be released on bail in connection with Crime No. 0408 of 2024, dated 13.11.2024, registered with Shivur Police Station, Tq. Vaijapur, District Aurangabad, for the offences punishable under sections 109, 115, 3(5) of Bharatiya Nyaya Sanhita, 2023, on furnishing PR bond of Rs. 20,000/- with one or two sureties in the like amount to the satisfaction of the trial Court.

b] The applicant shall not enter the jurisdiction of Shivur Police Station, Tq. Vaijapur, District Aurangabad during pendency of the trial.

c] The applicant, upon being released on bail, shall not contact the informant, in any manner whatsoever, during the pendency of the trial.

d] The applicant shall co-operate with the trial

Court and he shall attend each and every date, unless exempted by the trial Court, for reasons to be recorded in writing.

e] The applicant shall not tamper with the evidence of the prosecution and he shall not influence the informant, witnesses and other persons concerned with the case.

f] The applicant, upon being released on bail, shall place on record of the trial Court the details of his Contact Number and residential address with updates in case of any change.

8] Needless to say, in case of violation of any of the aforesaid conditions, the bail granted to the applicant shall be liable to be cancelled. It is also clarified that the observations made in this order are limited to the disposal of the present bail application. The concerned Court shall proceed further in the matter without being influenced by the observations made hereinabove.

9] The application is allowed.

[ARUN R. PEDNEKER]
JUDGE