

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

910 BAIL APPLICATION NO.23 OF 2021

IMRAN BISMILLA KHAN
VERSUS
THE STATE OF MAHARASHTRA

.....

**WITH
BAIL APPLICATION NO. 07 OF 2021**

SYED JAWED S/O SYED MEHAMOOD
VERSUS
THE STATE OF MAHARASHTRA

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Advocate for Applicant : Mr. Kshirsagar Gajanan K. And A. G. Ingle
APP for Respondent-State : Mr. A. M. Phule.

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CORAM : SMT.VIBHA KANKANWADI, J.
DATE : 25-02-2021.

ORAL ORDER :

1. Both the applicants have been arrested on 15-09-2020, in connection with Crime No.375 of 2020, registered with Jinsi Police Station, District Aurangabad for the offences punishable under Section 307, 143, 147, 148, 149, 452, 323, 504, 506 of Indian Penal Code. They have filed present applications under Section 439 of Code of Criminal Procedure.
2. Heard learned Advocate Mr. G. K. Kshirsagar for applicants and

learned Additional Public Prosecuotr Mr. A. M. Phule for respondent-State. In order to cut short it is stated that, both of them have made submissions in support of their respective contentions.

3. It is to be noted that the First Information Report has been lodged by one Shaikh Parveen Begum Shaikh Fahimoddin on 09-08-2020 in respect of the incident that had allegedly taken place on the same day at about 11.00 a.m. The present applicants are accused No.4 and 3 respectively. It has been contended by her that an incident of dispute had takne place at about 08.00 a.m. on the count of throwing of garbage in her house by neighbour Anjum. The dispute was between informant, said Anjum and Anjum's mother-in-law Jamila. After the informant informed the said fact on phone to her husband, the husband came and in the meantime Jamila's husband Mahemood came along with two other unknown persons. Mahemood started abusing the husband of the informant namely Fahimoddin. Thereafter, present applicant Jawed (Applicant in Bail Application No.07 of 2021) along with another son of Mahemood namely Hamid and son-in-law Imran (Applicant in Bail application No.23 of 2021) assaulted Fahimoddin, and then after Mahemood had given a call to Jamila and one Samina by saying that they should

bring knife and then he has stated that, he would eliminate Fahimoddin. Samina provided knife to Jawed and then in her First Information Report she has stated that Jawed had stabbed Fahimoddin in his stomach and also to her brother-in-law Nayeem who had gone to rescue Fahimoddin.

4. Perusal of the supplementary statement given by the informant on 19-09-2020 it is stated that in fact Fahimoddin and Nayeem were stabbed by Sayyad Hamid Sayyad Mahemood. That means, it appears that she wanted to take back the allegation in the First Information Report in respect of Jawed and shift it to Hamid. But prior to that the statement of both the injured Fahimoddin and Nayeem has been recorded on 11-08-2020 in which they have stated that they were stabbed by Hamid. It has been pointed out by the learned Advocate for the applicant that Hamid has been released by the Trial Court on 28-08-2020 that is in Bail Application No.1195 of 2020. Perusal of that order would show that though the learned Additional Sessions Judge had stated that he has perused the police papers which would be naturally containing the statement of Fahimoddin and Nayeem, still the allegations against the said accused i.e. Hamid are that of catching hold of the injured, and it is

specifically stated that, the applicant is not the alleged assailant who had caused grievous hurt to the injured witnesses. This appears to be contrary to the record still when Hamid has been granted bail by the competent Court then on the basis of record that is produced, especially the statement of the injured persons and the supplementary statement of the informant, the present applicants deserve to be released on bail. It is not necessary to go into all the other documents which are produced in the charge-sheet. Now the investigation is also over and the further physical custody of the applicants is not required. Hence, following order.

ORDER

- 1) Both the applications stand allowed.
- 2) Applicants Imran Bismilla Khan and Syed Jawed Syed Mehamood, arrested in connection with Crime No.375 of 2020, registered with Jinsi Police Station Distrit Aurangabad, for the offences punishable under Section 307, 143, 147, 148, 149, 452, 323, 504, 506 of Indian Penal Code, they be released on PR of Rs.50,000/- each (fifty thousand) with two solvent sureties of Rs.25,000/- each (twenty five thousand).

3) The applicants shall not indulge in any criminal activity nor they shall try to tamper with the evidence of the prosecution in any manner, especially taking into consideration the fact that the injured and the informant are the neighbours.

4) Before submission of bail papers, the applicant should give complete address of his residence with his mobile number. So also he should comply with the requirements under paragraphs No.12 (1) to (6) of Chapter I of Criminal Manual, whichever are applicable.

5) Bail before Trial Court.

(SMT. VIBHA KANKANWADI)
JUDGE

vjg/-