

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO.130 OF 2021

- 1) Azam Farooqui s/o Shafikoddin Farooqui,
Age 33 years, Occupation Agriculture,
R/o Asar Mohalla, Basamath District
Hingoli.
- 2) Daniyal Farooqui s/o Sajjad Farooqui,
Age 22 years, Occupation Education,
R/o Asar Mohalla, Basamath District
Hingoli.

.....Applicants

VERSUS

The State of Maharashtra,
Through P. S. Basmath District
Hingoli.

.....Respondent

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Advocate for Applicants : Mr. Shaikh Waheed Ahmed
APP for Respondent-State : Ms. D. S. Jape.

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CORAM : SMT.VIBHA KANKANWADI, J.

**Date of Reserving The Order :
22-02-2021.**

**Date of Pronouncing The Order :
02-03-2021.**

ORDER :

1. Present applicants have been arrested on 14-01-2021 in connection with Crime No.14 of 2021, registered with Basmat (City) P.S. Dist. Hingoli, for the offences punishable under Section 307, 326,

324, 294, 34 of the Indian Penal Code, Section 4(25) of Arms Act. They have filed present application under Section 439 of Code of Criminal Procedure.

2. Heard learned Advocate Mr. Shaikh Waheed Ahmed for applicants and learned Additional Public Prosecutor Ms. D. S. Jape 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 has been vehemently submitted on behalf of the applicants that perusal of the First Information Report would show that the alleged dispute started only on the allegation that the informant was staring at applicant No.1. In the First Information Report itself it is stated that the applicant No.1 had given blow on the left thigh of the informant with the wooden handle of the axe by keeping the blade on the side of the accused. Accused No.2 is stated to have given a blow of Katti (scythe like weapon) on the left shoulder of the informant, and therefore, the learned Advocate appearing for the applicant submit that the offence under Section 307 of Indian Penal Code or even Section 326 of the Indian Penal Code has been wrongly invoked. The investigation is almost over. Further, though

it is stated in the order passed by the learned Trial Judge that there is criminal antecedents, yet the act attributed to the present applicants in this case is required to be separately considered. It would take long time for the trial to stand, therefore the applicants deserve to be released on bail.

4. Per contra, the learned Additional Public Prosecutor strongly opposed the application and submitted that the accused persons and the informant are related to each other and they are on cross terms. Possibility of they indulging in similar or more serious offence cannot be ruled out. There are four offences those are pending against him. There is evidence against present applicants, and therefore, they do not deserve to be released on bail.

5. Perusal of the First Information Report would show that the informant who is stated to be a news reporter states that at about 03.00 p.m. on 13-01-2021, the applicant No.1 had abused him by rushing towards him with knife, and therefore, he had already lodged a complaint against the applicant No.1. Thereafter, he says that at about 04.00 p.m. he had gone to submit his admission papers for LL.B. Course, at that time both the accused/ applicants came and the present applicant No.1 had assaulted him on his left

thigh with the reverse end of axe and the applicant No.2 had given blow of Katti on the left shoulder. But then he says that when applicant No.1 told applicant No.2 that he should chop the head of the informant, and applicant No.2 tried to give blow, it was resisted by the applicant and he sustained grievous injury in between small finger and the finger adjacent to it. The second blow was received by him near his right arm. However, if we consider the Medico Legal Certificate then though it states about four injuries, three are incised wounds and one is blunt trauma, but then all are stated to be simple injuries with sharp weapon. At least at this stage there is no such evidence on record that those injuries were in any way grievous. Another fact that is required to be noted is that on the same day on the information lodged by present applicant No.1, Crime No.15 of 2021 has been registered against the informant Abdul Syed Abdul Wahid Farooqui for the offences punishable under Section 307, 324, 504 of Indian Penal Code. Therefore, taking in to consideration this aspect, the applicants deserve to be released on bail. As regards the offences allegedly pending against applicant No.1 is concerned, it appears that he has been acquitted from certain offences and some are pending. His involvement in the present case and the role attributed to him is also then required to be considered. The

substantial part of investigation is over, the application deserves to be allowed, however with stringent conditions. Hence, following order.

ORDER

- 1) Applicant No.1 Azam Farooqui s/o Shafikoddin Farooqui and applicant No.2 Daniyal Farooqui s/o Sajjad Farooqui, arrested in connection with Crime No.14 of 2021, registered with Basmat (City) P.S. Dist. Hingoli, for the offences punishable under Section 307, 326, 324, 294, 34 of Indian Penal Code and Section 4 (25) of Arms Act, be released on P.R. of Rs.50,000/- each (Fifty thousand) with one or two solvent sureties of like amount.
- 2) The applicants shall not tamper with the evidence of the prosecution in any manner.
- 3) They shall not indulge in any criminal activity.
- 4) Before submission of bail papers, the applicants should give complete address of their residence with their mobile numbers. So also they 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/-