

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

**BAIL APPLICATION NO.136 OF 2021  
WITH APPLN/426/2021 IN BA/136/2021**

**ATISH @ LUCKY JAYSINGH KANDERE AND ANR**

**VERSUS**

**THE STATE OF MAHARASHTRA**

...

Mr. Joydeep Chatterji, Advocate for applicants

Mr. N.T. Bhagat, APP for the respondent

Mr. D.B. Pokale, Advocate for assist to APP

...

**WITH**

**BAIL APPLICATION NO.111 OF 2021  
WITH APPLN/425/2021 IN BA/111/2021**

**AKSHAY RANGNATH SAKHARE**

**VERSUS**

**THE STATE OF MAHARASHTRA**

...

Mr. S.J. Salunke, Advocate for the applicant

Mr. N.T. Bhagat, APP for the respondent

Mr. D.B. Pokale, Advocate for assist to APP

...

**CORAM : SMT. VIBHA KANKANWADI, J.**

**DATE : 23<sup>rd</sup> MARCH, 2021.**

**ORDER :**

1 Criminal Application Nos.426 of 2021 and Criminal Application No.425 of 2021 moved for assist to APP are allowed and disposed of.

2 The applicants have been arrested in connection with Crime No.403/2020 dated 25.10.2020 by Shivaji Nagar Police Station, Beed, Dist. Beed, for the offence punishable under Section 307, 323, 143, 147, 148, 149 of the Indian Penal Code 1860 and under Section 3 punishable under Section 25 of the Indian Arms Act. All of them have filed applications under Section 439 of the Code of Criminal Procedure, 1973 for release on bail.

3 Heard learned Advocate Mr. Joydeep Chatterji for applicants in Bail Application No.136 of 2021, learned Advocate Mr. S.J. Salunke for the applicant in Bail Application No.111 of 2021 and learned APP Mr. N.T. Bhagat for the respondent in both Bail Applications well assisted by learned Advocate Mr. D.B. Pokale for original informant.

4 It has been vehemently submitted on behalf of the applicants that First Information Report is the outcome of the rivalry. In fact, five co-accused have been granted anticipatory bail by the learned Sessions Judge, Beed, whereas co-accused Hrushikesh Bhambe, who had allegedly assaulted the informant with stone has been granted regular bail. Present FIR is the

counter blow to the crime registered on the basis of FIR lodged by applicant Akshay Sakhare against the friends of the informant, those friends are Vaijinath Chirke, Shashikant Shinde and Swapnil Shinde and the offence is under Section 324, 323, 504 read with Section 34 of the Indian Penal Code being Crime No.6/2020. The informant contended that the applicants had taken objections in respect of his photo with Bala Chirke on poster. This appears to be a very trifling ground. Learned Advocate representing Akshay Sakhare has submitted that as per the FIR, it is stated that said applicant had assaulted the informant with axe, whereas police have recovered sickle. There is delay in lodging the FIR. Further physical custody of the applicant is not required. Learned Advocate representing applicant No.2 Akash in Bail Application No.136 of 2021 submits that he was not present on the spot at the time of alleged incident, but he was at Sinhgad Hotel, which was 3 k.ms. away from the spot. Further, it is stated that he had assaulted the informant by sword on his right leg, but the injury certificate does not support the said fact. Even if those allegations are taken as it is, that blow was on non vital parts i.e. legs and it could not depict the intention to kill. One case is pending against both the applicants in Bail Application No.136 of 2021 vide Crime No.378/2020 under Section 336, 427, 504, 506 of the Indian Penal Code. It cannot be said to be a major complaint, which will disentitle them on being released on bail. Further, applicant No.2 has been convicted for the

offence punishable under Section 188 of the Indian Penal Code with fine. The applicant No.1 is a student, whereas applicant No.2 is married and has 10 years old daughter. Both the learned Advocates appearing for the applicants, therefore, canvassed for releasing the applicants on bail.

5 Per contra, the learned APP well assisted by learned Advocate Mr. D.B. Pokale for original informant submitted that the weapons used for assaulting informant are sword, sickle, belt, wooden sticks and stone. Informant states that there was birthday of one Amol Vitkar few days prior to the FIR and at that time banner in respect of his birthday was displayed, on which the informant had his photo printed along with one Bala Chirke. Since then the present applicants used to say to him, as to why he has printed his photo on the banner along with photo of Bala Chirke. Informant says that when he was standing in front of K.S.K. College, at that time, the present applicants with Ashok Sathe and Hrushikesh Bhambe came running towards him to assault him by sword and sickle. Informant was with his friends and after they saw that the present applicants and others were coming towards them, they ran away from the spot. Informant was chased by the present applicants. After going for a distance informant fell down in mud. He was then assaulted by Ashok Sathe with sword on his right shoulder, Lucky Kandare assaulted him on his left leg with sickle, Hrushikesh Bhambe

assaulted him with stone and Ashok Sathe had assaulted him with belt. When informant tried to flee away from that spot, at that time applicant Akash Kandare gave blow of sword on the right leg of the injured. Thereafter, the friends of the informant separated informant and applicants and others and then he was shifted to hospital. According to the informant, the attack was to kill him.

6           It has been further contended by APP that CCTV footage of the shops, in front of which the informant and the accused persons were seen running, has been connected and it shows that certain persons with weapons like sword and sickle were chasing a person. The discovery of sword is at the instance of applicant Akash on 15.12.2020 and discovery of sickle is at the instance of Atish @ Lucky Kandare on 16.12.2020. There is terror created by the present applicants in Beed. They form unlawful assembly and commit offence against body of the persons. If they are released on bail, then the further progress in the investigation would get hampered. Further, it is stated that accused Akshay Sakhare is involved in four crimes, that is, Crime No.32/2016 under Section 12(a) of Maharashtra Prevention of Gambling Act, 1887, Crime No.211/2016 under Section 4 punishable under Section 25 of the Indian Arms Act, Crime No.6/2015 under Section 12(a) of Maharashtra Prevention of Gambling Act, 1887 and Crime No.643/2018 under Section

229(a) of the Indian Penal Code. Against accused Atish @ Lucky Kandare there are two offences; one is Crime No.200/2019 under Section 324, 504 read with Section 34 of the Indian Penal Code and another is Crime No.378/2020, which is along with his brother accused Akash, under Section 336, 427 of the Indian Penal Code. When there is criminal antecedents and further, when the evidence in the form of CCTV footage, panchnamas including the discovery panchnama of the weapon, medical evidence, call records has been connected, the applicants do not deserve any kind of sympathy.

7           At the outset, though there appears to be criminal antecedents of the applicants, yet, it is required to be seen, as to what kind of allegations have been made against them in present case and what evidence has been collected. Delay in lodging report is always not fatal. It can be seen from the FIR that it is lodged by the injured himself. He has given the details and specific role has been attributed by him to the present applicants. He has stated that applicant Akshay Sakhare had assaulted him by sword on his right shoulder, accused Atish @ Lucky had assaulted him by axe, which hit his left leg and applicant Akash Kandare is stated to have assaulted on the right leg of the informant by sword. Prosecution has collected CCTV footage and it is stated that it is seen that the informant was being chased by certain persons

armed with weapons. Applicant Akshay has discovered axe. Their clothes, which were allegedly on their person on the date of incident, have also been seized. There are eye witnesses to the incidence, who have certainly stated that they had seen the present applicants assaulting with sword, sickle, stone, belt etc. Medical certificate has been issued on 30.10.2020 by Renu Hospital, Barshi Road, Beed, which states that he had suffered two grievous injuries. Further, there is injury certificate issued by Sancheti Institute for Orthopaedics and Rehabilitation. It also states about three grievous injuries. The situs chosen appear to be head, as there is CLW over head. There is injury to leg, which is also grievous. Though it may seem that the blow of sword on the head of the informant was by somebody else, yet, definitely, when they had come cumulatively, then that fact can be viewed against them. There appears to be substantial part of the investigation already done and the work of submission of charge-sheet is remaining. Under such circumstance, when there is prima facie evidence against the present applicants and also the fact that they are involved in other cases, they have not stated as to what had happened to those cases, which were filed against them, would entitle this Court to infer that those cases are still pending and while they were on bail, the prosecution states that they have committed this offence. Therefore, taking into consideration this aspect the applicants do not deserve to be released on bail. Hence, following order.

**ORDER**

- 1 Both the Bail Applications stand rejected.
- 2 Criminal Application Nos.426 of 2021 and Criminal Application No.425 of 2021 are disposed of.

( Smt. Vibha Kankanwadi, J. )

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