

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO.220 OF 2021

1. Abju s/o Babu Tutake
2. Mohammad Mustaffa @ Mujju Maksud Havare ... Applicants

Versus

The State of Maharashtra ... Respondent

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Mr. A. S. More, Advocate for applicants.

Mrs. D. S. Jape, APP for respondent – State.

...

WITH

BAIL APPLICATION NO.237 OF 2021

Shahrukh @ Gaos s/o Farukh Sayyed ... Applicant

Versus

1. The State of Maharashtra,
Through the Superintendent of Police,
Osmanabad.
2. The In-charge Investigation Officer,
Police Station Paranda Tal. Paranda
Dist. Osmanabad ... Respondents

...

Mr. V. S. Undre, Advocate for applicant.

Mrs. D. S. Jape, APP for respondents – State.

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CORAM : SMT. VIBHA KANKANWADI, J.

DATE : 11th March, 2021

ORDER :-

. All the applicants have been arrested by Paranda Police Station,
District Osmanabad in connection with Crime No.30 of 2021 dated

23.01.2021 for the offences punishable under Sections 353, 332, 186, 504, 34 of Indian Penal Code. They have filed present applications for bail under Section 439 of the Code of Criminal Procedure.

2. Heard learned Advocate Mr. A. S. More for the applicants in Bail Application No.220 of 2021, learned Advocate Mr. V. S. Undre for the applicant in Bail Application No.237 of 2021 and learned APP Mrs. D. S. Jape for the respondents – State in both the cases. In order to cut short it can be said that all of them have made submissions in support of their respective contentions.

3. It is to be noted that the FIR has been lodged by the Police Constable Yogesh Gautam Yadav attached to Paranda Police Station on 23.01.2021. It is stated by him that on 22.01.2021, distribution of the duty of night patrolling was done and accordingly, they intended to have session diary entry around 23.00 hours before leaving. However, there was network problem and, therefore, the police station officer told them that they should leave the police station, but then he would make necessary entry after the resumption of the network. When the informant along with one homeguard - Thite was patrolling, at that time, they found that some boys were quarreling in front of Mastan Pan shop near Samata Nagar zopadpatti at about 23.15 hours. They found

that one Shahrukh Sayyed, Abju Tutake and Niyamat Tutake and other 7 to 8 persons were quarreling. They had asked those boys not to quarrel, but applicants Shahrukh and Abju with co-accused Niyamat rushed towards the informant and started abusing them. All the three persons caught hold of the collar of his uniform and manhandled him. Two buttons of his uniform were broken. When the informant resisted, all those three persons went away from the said spot on scooty vehicle. Informant and the homeguard informed the said fact police station officer and the police station officer had sent more police persons at the spot. They started searching for those persons, who had assaulted them and they made inquiry in the house of Abju Tutake and Niyamat Tutake at Momin Galli as to whether they are at home. Three persons came out and applicant – Abju's uncle Mainu Tutake started abusing police as to why they are disturbing them at night time. They were resisted from doing their official work and, therefore, informant came back to the police station and lodged report. Thus, it is to be noted that as regards the present applicants are concerned, catching hold of the collar of the police constable and manhandling him are the main allegations. Nothing is to be recovered at the instance of the applicants. It appears that Mainuddin Tutake is having some criminal antecedents. Further, even if we take note of that conviction against Mainuddin and he has

also involved in the present case, yet, the role attributed to the present applicants is required to be considered and, therefore, they deserve to be released on bail.

4. While releasing the applicants on bail, a fact is then required to be noted that the allegations against them are that they have assaulted a police officer who was doing his duty. If the applicants are allowed to let go by granting bail to them, they will not feel any heed for the law. Taking into consideration the age of the applicants as 24, 28 and 20, but since they are involved in this crime though it is at a very *prima facie* stage, yet, the bail is granted subject to deposit of cost of Rs.5,000/- by each of them to the High Court Legal Services Authority Sub-Committee, Aurangabad. Hence, the following order :-

ORDER

- I) Both the applications stand allowed.
- II) Applicants viz., (i) Abju s/o Babu Tutake, (ii) Mohammad Mustaffa @ Mujju Maksud Havare and (iii) Shahrukh @ Gaos s/o Farukh Sayyed, who have been arrested in connection with Crime No.30 of 2021 dated 23.01.2021 registered with Paranda Police Station, District Osmanabad for the offences punishable under Sections 353, 332, 186, 504, 34 of Indian Penal Code, be released

on P. R. and S. B. of Rs.15,000/- each.

III) Applicants to deposit cost of Rs.5,000/- each with the High Court Legal Services Authority Sub Committee, Aurangabad on or before 12.03.2021. If applicants deposit the cost amount as directed above, the same be accepted.

III) They shall not tamper with the evidence of the prosecution in any manner.

IV) They shall not indulge in any criminal activity.

V) Bail before the Trial Court.

[SMT. VIBHA KANKANWADI, J.]

scm