

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

926 BAIL APPLICATION NO.525 OF 2021

**SHAIKH SAMEER SHAIKH AYYUB
VERSUS
THE STATE OF MAHARASHTRA**

Shri. Joydeep Chatterji, Advocate for the applicant
Shri. S. P. Sonpawale, APP for the respondent/State

CORAM : M. G. SEWLIKAR, J.

DATED : 31st August, 2021

PER COURT :-

1. Heard.
2. The applicant is accused of committing offence under Sections 307, 109, 120(B), 143, 147, 148, 149, 323 of the Indian Penal Code and under Section 4/25 of the Arms Act registered with Chikalthana Police station vide C.R. No. I-167 of 2016. It is alleged that the applicant and others had assaulted the injured by means of dangerous weapons. The applicant was alleged to have been possessed of knife at the time of incident and he was alleged to have stabbed the victim.

3. Learned counsel Shri. Chatterji submits that trial of other accused was conducted, some of the accused were acquitted and some of the accused were convicted for 7 years under Sections 307, 109, 120(B) of the Indian Penal Code and other sections. The conviction was maintained by this Court but their sentence was reduced to 4 years. He submits that the applicant was all along in the town itself. He was not arrested. Charge-sheet was filed under Section 299 of the Code of Criminal Procedure showing him to be absconding. He submits that the applicant was accused of another offence bearing No. 84 of 2016 registered with the same police station i.e. Chikalthana Police Station, Aurangabad. He submits that the accused was tried and was acquitted by Sessions Court, Aurangabad. He has produced copies of roznama indicating his presence in the Court through out the trial.

4. Learned APP states that the applicant was absconding. He further submits that this Court had called the report from the Investigating Officer under Sections 82 and 83 of the Code of Criminal Procedure to show that all

the steps were taken before he was declared absconding. The said report is still awaited.

5. Initially I had thought of giving time to the learned APP for procuring the said report. However, in view of the record produced by the learned counsel Shri. Chatterji for the applicant, I thought it appropriate not to grant time to the learned APP. The record produced by the applicant clearly shows that the applicant was tried for the offence under Section 376 of the Indian Penal Code. It further shows that the applicant was attending the dates fixed in the trial. Therefore, it cannot be said the applicant was absconding. In this view of the matter and since the applicant is behind bars since February, 2020, I am inclined to release the applicant on bail. Hence the order.

ORDER

1. Application is allowed.
2. Applicant be released on bail on his furnishing PR bond of Rs. 25,000/- (Rupees Twenty Five Thousand only) with one solvent surety in the like amount in connection with CR No. 167 of 2016 under Sections 307, 109, 120(B), 143,

147, 148, 149, 323 of the Indian Penal Code, under Section 135 of the Bombay Police Act and under Section 4/25 of the Arms Act registered with Chikalthana Police Station, Aurangabad and shall attend all the dates fixed during the trial.

3. Application is disposed of.

[M. G. SEWLIKAR, J.]

ssp