

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

BAIL APPLICATION NO. 567 OF 2021

Chandkhan Lalkhan Pathan ... Applicant

Versus

State of Maharashtra ... Respondent

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Mr. Satyajit S. Bora, Advoate for the applicant
Mr. S. W. Munde, APP for the respondent-State

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CORAM : R. G. AVACHAT, J.

RESERVED ON : 28th MAY, 2021

PRONOUNCED ON : 03rd JUNE, 2021

ORDER :-

. This is an application for bail under Section 439 of the Code of Criminal Procedure. The applicant has been arrested in connection with Crime No. 154/2021, registered with Jamkhed Police Station, Taluka Jamkhed, District Ahmednagar, for the offence punishable under Section 307, 143, 147, 148, 149, 324, 506 of the Indian Penal Code and under Sections 4 and 25 of the Arms Act.

2. Heard. Perused the First Information Report (FIR) and the related papers.

The FIR has been lodged by the victim himself. It is alleged in the FIR that the informant was on his way home by 9.00 in the morning on 07.04.2021. While he was passing by the house of the applicant, he saw the fight among the family members of the applicant. He, therefore, questioned the applicant as to why did he quarrel. The applicant got annoyed. The co-accused came there armed with stick, iron rod, sword etc. The applicant got annoyed of the informant's intervention. The applicant attempted to assault the informant on his head with sword. The informant suffered serious head injuries. Co-accused Tanveer attempted to assault him with the sword. The informant, however, caught hold of the sword. He thereby suffered injury to his palm. Co-accused Ismail Ibrahim Pathan and Ayash Habeeb Pathan beat up him with an iron rod, stick and gave threat to his life arm before leaving from the spot. The informant was rushed to the hospital. He lodged the FIR in hospital itself.

3. Shri Satyajit S. Bora, learned Advocate for the applicant would submit that the FIR has been filed with false and concocted version. According to him, it does not stand to reason that the person who intervenes to settle a quarrel, would be given a

murderous assault only for the reason of his intervention. The learned Advocate would further submit that the present FIR has been preceded by registration of crime vide Crime No.155/2021 against the informant and others. Same fortifies his claim of the FIR being replete with false allegations. Learned Advocate would further submit that co-accused have either been granted regular bail or released on pre-arrest bail. The informant suffered simple injuries. The sword has been recovered. Due to the pandemic situation, it would be desirable to keep 54 years old applicant, behind the bars. He, therefore, urged for grant of the application.

4. Learned APP would on the other hand submit that the investigation is in progress. It was an attempt on the life of the informant. He, therefore, urged for rejection of the application.

5. The submission of the learned Advocate for the applicant that mere intervention to settle the quarrel can't be a reason for the alleged murderous assault on the informant. There is a crime vide C.R.No.155/2021, registered at the instance of accused No.5 in this crime against the informant herein and his family members relating to the incident that took place on the same day. It therefore appears to be a case of fight between the members of two families. The same

suggest that the allegations in the FIR in question is not the correct version of the happening. Three of the accused have been enlarged on anticipatory bail. The sword has been recovered. The injury certificate indicates the informant to have suffered simple injuries. The cause of injuries are stated to be assault with hard, sharp heavy object.

Be that as it may, the applicant is behind the bars since 08.04.2021. The investigation is almost complete. The sword has been recovered. The nature of injuries suffered by the informant are simple. The same dilutes the informant's case that he was assaulted with an intention to eliminate him. There is a counter FIR registered against the informant and his family members. The applicant is 54 years of age. Due to pandemic situation, it is not desirable to keep him behind the bars. In the fact and circumstances of the present case, I am inclined to grant the application. Hence, following order:-

ORDER

- (i) The Bail Application is allowed.
- (ii) The applicant shall be released on bail in connection with Crime No. 154/2021, registered with Jamkhed Police Station, Taluka Jamkhed, District Ahmednagar,

for the offence punishable under Section 307, 143, 147, 148, 149, 324, 506 of the Indian Penal Code and under Sections 4 and 25 of the Arms Act, on executing P. R. bond in the sum of Rs.15,000/- (Rupees Fifteen Thousand) with surety in the like amount.

(iii) The applicant shall not tamper with the prosecution evidence.

[R. G. AVACHAT, J.]

SMS