

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

12 BAIL APPLICATION NO.1482 OF 2020

1 MOIN ISAK SHAIKH
2 MUSTAQ MUSA SHAIKH
VERSUS
THE STATE OF MAHARASHTRA

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Advocate for Applicants :Mr. Ghanekar Nilesh S.
APP for Respondent : Mr. A A Jagatkar

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CORAM : V.K. JADHAV, J.
Dated: January 04, 2021

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PER COURT :-

1. The applicants are seeking regular bail in connection with Crime No. 223 OF 2020 registered with Daulatabad Police Station, District Aurangabad for the offences punishable under Sections 307, 353, 328, 188, 273, 279, 427, 34 of the Indian Penal Code and under Section 59 of the Food Safety and Standards Act, 2006. Their application with similar prayer bearing Bail Application No. 1807 of 2020 came to be rejected by the learned Additional Sessions Judge, Aurangabad vide order dated 27.11.2020.

2. Learned counsel for the applicants submits that the applicants are detained in jail in connection with the present crime since 11.11.2020. Learned counsel submits that applicant no.1 was allegedly driving the vehicle Ashok Leyland in which the contraband articles were being transported. Learned counsel submits that on the basis of the secret information received, the raiding party stopped the said Ashok Leyland vehicle. However, as per the allegations, applicant no.1 was driving the said vehicle and applicant no.2 sat by his side in the vehicle. It further appears that one another vehicle of Hyundai company came from the back side and three persons got down from the said vehicle. Learned counsel submits that those three persons are the main culprits. Learned counsel submits that though there are allegations against applicant no.1 that he had tried to run over the vehicle on the person of the informant, however, the informant has not sustained any injury in the alleged incident. Learned counsel submits that even there is charge under section 307 of IPC against both the

applicants. There is no criminal history. The applicants may be released on bail. The applicants are ready to abide the conditions if imposed by this Court while releasing them on bail. The applicants may be released on bail.

3. Learned A.P.P. has strongly resisted the application on the ground that investigation is still in progress and it is not clear from the investigation papers as to whether those persons travelling in the Hyundai Car came to be arrested in the present crime. Learned APP submits that contraband articles i.e. 23 bags containing Gutkha worth of Rs.3,90,000/- came to be seized from the truck being driven by the present applicant no.1. The applicants may not be released on bail.

4. On going through the allegations made in the complaint and on perusal of the investigation papers, it appears that immediately after the vehicle Ashok Leyland was stopped by the raiding party,

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applicant no.1 has disclosed to the raiding party that the persons travelling in the car following their vehicle Ashok Leyland are the owners of the said contraband articles. It further appears from the contents of the FIR that shortly thereafter, the said Hyundai Car came to the spot and three persons got down from the said car. it further appears that those three persons have not only threatened the raiding party but also insisted the applicants to run away from the spot alongwith said Ashok Leyland vehicle. Though there are allegations against applicant no.1 for making an attempt to run the vehicle on the person of the informant, however, I do not find any medico-legal certificate of the informant indicating injuries on his person. There is no criminal history. Both the applicants are young persons. In view of the same, I am inclined to release the applicants on bail. Hence, following order.

O R D E R

- I. Application is hereby allowed.
- II. The applicant nos. 1 MOIN ISAK SHAIKH and 2 MUSTAQ MUSA SHAIKH in connection with

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Crime No. 223 OF 2020 registered with Daulatabad Police Station, District Aurangabad for the offences punishable under Sections 307, 353, 328, 188, 273, 279, 427, 34 of the Indian Penal Code and under Section 59 of the Food Safety and Standards Act, 2006, be released on bail on furnishing P.B. of Rs.20,000/-(Rs. Twenty Thousand) each with one solvent surety each of the like amount, on the following conditions :-

- a] The applicants shall not tamper with the prosecution evidence, in any manner.
- b] The applicants shall attend the concerned police station once in a week i.e. on every Sunday between 8 a.m. to 11 a.m. till filing of the charge sheet and shall also make themselves available as and when required by the Investigating Officer till filing of the charge sheet.

III. Bail application is accordingly disposed off.

(V.K. JADHAV, J.)

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