

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

926 BAIL APPLICATION NO.1248 OF 2021

**SHAIKH JABBAR SHAIKH SATTAR
VERSUS
THE STATE OF MAHARASHTRA**

Shri. Angad L. Kanade, Advocate for the applicant
Shri. S. D. Ghayal, APP for the respondent/State

CORAM : M. G. SEWLIKAR, J.

DATED : 22nd OCTOBER, 2021

PER COURT :-

1. This is an application under Section 439 of the Code of Criminal Procedure for releasing the applicants on bail in connection with CR No. 234 of 2021 registered with MIDC CIDCO Police Station, Dist. Aurangabad for the offences under Sections 302, 201 read with 34 of the Indian Penal Code.

2. Prosecution case in brief is that the applicant and the deceased were friends. There was some altercation on account of money between Asif and the deceased on 30th May, 2021 at 12.00 p.m. Applicant was also present there.

Thereafter, hot exchange of words followed between Asif and the deceased. Accused Asif took out a knife and stabbed the deceased in the abdomen. He assaulted the deceased multiple times. Thereafter the deceased was taken to his house and it was projected that it was an accident and in the accident the deceased sustained injuries. When informant, the brother of the deceased came to know of the condition of the deceased, he started making enquiries about the injuries caused to deceased Wasim. Thereafter applicant divulged the incident to the informant. Thereafter informant lodged the report on the basis of which offence under Sections 302, 201 read with Section 34 of the Indian Penal Code came to be registered against the applicant and other accused.

3. Heard Shri. Kanade, learned counsel for the applicant and Shri. Ghayal, learned APP for the respondent/state.

4. Learned APP Shri. Ghayal invited attention of this

Court to the statement of Nadim Khan Nijam Khan who is an eye witness to the incident. He submits that the statement clearly shows that applicant was also abusing the informant. Therefore, applicant cannot be released on bail as offence is serious and his involvement is also evident from the statement of Nadim Khan Nijam Khan.

5. Charge-sheet is filed. On perusal of the statement of Nadim Khan Nijam Khan it reveals that he is an eye witness. The statement further reveals that there was hot verbal exchange between deceased and Asif. Asif took out a knife from his pocket and stabbed in the abdomen of the deceased Shaharukh. The deceased Wasim @ Shaharukh warded it off by his hand. Accused Asif again assaulted on the abdomen of the deceased. The statement of this witness clearly reveals that the actual fight was between accused Asif and the deceased Wasim @ Shaharukh. Applicant was simply present there. Initially he was also a party to the abuses being hurled at the deceased. However, subsequent part of the incident does not indicate that applicant took part

in assaulting the deceased. Applicant does not have criminal antecedents. He will be available for trial. Therefore, considering the role of the applicant, 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. 15,000/- (Rupees Fifteen Thousand only) with one solvent surety in the like amount in connection with CR No. 234 of 2021 under Sections 302, 201 read with Section 34 of the Indian Penal Code registered with MIDC CIDCO Police Station, Dist. Aurangabad.
3. Application is disposed of.
4. It is clarified that the observations made in the above order are restricted to the decision of this application only and the trial Court shall not get influenced by the same and can come to its independent conclusion during trial.

[M. G. SEWLIKAR, J.]

ssp