

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

BAIL APPLICATION NO.1415 OF 2021

Furkan Shakil Shaikh

...APPLICANT

VERSUS

The State of Maharashtra

...RESPONDENT

...
Mr. Nayyim S. Shaikh Advocate for Applicant.
Mr. V.M. Kagne, A.P.P. for Respondent.
...

CORAM: SMT. VIBHA KANKANWADI, J.

DATE : 21st DECEMBER, 2021

ORDER :

1. Present application has been filed under Section 439 of the Code of Criminal Procedure by the applicant who has been arrested in connection with Crime No. 0702 of 2021 registered with Kotwali Police Station, Ahmednagar for the offence punishable under Section 307, 326, 324, 323, 504, 506 read with Section 34 of the Indian Penal Code and under Section 25(4) of the Arms Act, 1959.

2. Heard learned Advocate for the applicant and learned APP for the respondent – State.

3. Perusal of the First Information Report that has been lodged by one Sayyad Arbaz Shakil would show that he and his father were assaulted by four persons on 24th September 2021 at about 1.00 a.m. He says that he runs a Pan Shop and at about 1.00 a.m., accused persons had come to his shop for purchasing cigarette. When the father of the informant refused to sell cigarette, the accused persons started abusing to father of the informant. Informant and his brother joined their father but at that time accused persons left the place and came back after fifteen minutes armed with sticks and sword. The informant says that at that time they were closing their shop. Present applicant assaulted informant's brother with sword. The blow was received on left arm by the brother of the informant and when the informant went to rescue him, he received the blow of the sword on his right wrist. It is stated that the present applicant then assaulted the father of the informant with stick and the other accused had assaulted informant as well as his brother by kicks and fists. They were admitted to hospital and thereafter the First Information Report was lodged.

4. Learned APP, while strongly opposing the application, submits that the intention will have to be considered and the weapon that has been used is sword.

5. It is to be noted that as per the First Information Report itself, the blow has been received on arm and wrist. Therefore, the question will arise at the time of framing of charge, as to whether Section 307 of the Indian Penal Code has been made out or not. Though we may take, it would have caused grievous hurt, it would be covered under Section 326 of the Indian Penal Code. Now substantial part of the investigation appears to have been completed and the applicant appears to have been arrested on 25th September 2021. He deserves to be released on bail with stringent conditions. Hence the following order:-

ORDER

- i) The Application stands allowed;
- ii) The applicant – Furkan Shakil Shaikh be released on bail in connection with Crime No. 0702 of 2021 registered with Kotwali Police Station, Ahmednagar for the offence punishable under

Section 307, 326, 324, 323, 504, 506 read with Section 34 of the Indian Penal Code and under Section 25(4) of the Arms Act, 1959 on PR Bond of Rs.50,000/- (Rupees Fifty Thousand) with two solvent sureties of Rs.25,000/- each;

iii) The applicant shall give his Mobile Number to the Investigating Officer as well as to the Trial Court and shall comply with the requirements set out in Para No. 12 (1) to (6) of Chapter-I of Criminal Manual, whichever are applicable.

iv) The applicant shall not indulge in any criminal activity nor shall tamper with the prosecution evidence in any manner.

v) Bail before the Trial Court.

[SMT. VIBHA KANKANWADI , J.]