

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

**924 BAIL APPLICATION NO.8 OF 2022
WITH APPLN/219/2022**

**IMRAN KHURSHID AHEMAD SHAIKH
VERSUS
THE STATE OF MAHARASHTRA**

...

Advocate for Applicant : Mr. Bhapkar S.L.

APP for Respondents/State : Mr. A.V. Deshmukh

Advocate for Informant in Appln/219/22 : Mr. Shaikh Mazhar Jahagirdar

...

CORAM : M.G. SEWLIKAR, J.

DATE : 16th February, 2022

PC.:-

This is an application under Section 439 of the Cr.PC. for releasing the applicant on bail in connection with Crime No.74/2021 under Section 302, 307, 326, 324, 323, 143, 147, 148, 149, 504, 506 read with Section 34 of the I.P.C. registered with Udgrhi City Police Station, District Latur.

2. Prosecution's case in brief is that shop of the applicant is in front of shop of the informant. Both of them are running chicken center.

3. On 24th March, 2021 at 10.15 am, Mirza Talha Ibrahim Baig cousin of the informant made a call to the elder brother of the informant intimating him that the applicant and the other accused closed their chicken

center and they were throwing the chicken on the road. Therefore, elder brother of the informant by the name of Mirza Fazal Baig left for the shop. His father Mirza Sardar Baig also went there along with the informant. When they reached the shop they found that applicant, accused-Asad Khurshid Shaikh, Akram Khurshid Shaikh, Altaf Khurshid Shaikh, Imran Khurshid Shaikh, Saddam Khurshid Shaikh were beating the elder brother and cousin of the informant and were also ransacking the articles in the shop. They were trying to close the shop forcibly. When informant and his father objected to it, accused-Asad Shaikh and Altaf Shaikh fell Mirza Fazal on a table. Accused-Asad Shaikh, Altaf Shaikh and Saddam Shaikh assaulted the brother of the informant by the name of Mirza Fazal Baig on the left abdomen and on both the hands by means of a chopper meant for chopping the chicken. Accused-Imran Shaikh and Asad Shaikh assaulted the father of the informant by means of a chopper on the abdomen and hand. They also pelted stones on the head of father of the informant. When the informant went to the rescue of his father, accused-Asad Shaikh held him from behind and accused-Altaf Shaikh assaulted him by means of spade. When younger brother of the informant by the name of Mirza Affan Baig came to the rescue of the informant the applicant assaulted him by means of knife on abdomen. On these allegations FIR came to be lodged against the applicant.

4. Heard learned counsel Shri Bhapkar for the applicant, Shri Deshmukh learned APP for the State and Shri Shaikh Mazhar Jahagirdar learned counsel for the informant assisting the APP.

5. Learned counsel Shri Bhapkar submits that applicant had sustained injury extending from his skull to the head. He submits that the applicant had also filed FIR on the basis of which offence under Section 307 of the I.P.C. came to be registered against the informant and his family members. He submits that the family members of the applicant also sustained injuries. Applicant sustained grievous injury. He submits that there was a free fight between the applicant, informant and their family members. He submits that if the applicant is released on bail he will stay out of District Latur.

6. Learned APP Shri Deshmukh and Shri Mazhar submit that the applicant and his family members assaulted brother of the informant. The assault was lethal one owing to which brother of the informant had to loose his life. They further submit that the applicant had assaulted an aged person of the age of 51 years. They submit that if the applicant is released on bail he will presurise the witnesses and tamper the prosecution evidence.

7. Admittedly, applicant does not have criminal antecedents. From the allegations in the FIR, it appears that the applicant did not assault the

deceased. The allegations show that the applicant assaulted the father of the informant. The father of the informant sustained grievous injuries. Medical certificate produced by the applicant shows that the applicant had injury extending from skull to the nose and it was an incise wound. Admittedly, family members of the applicant also sustained injuries. From the evidence collected by the prosecution it is seen that there was a free fight between applicant, informant and their family members. Therefore, individual role of each of the accused will have to be considered. Applicant and father of the informant both of them sustained grievous injuries in the free fight. There is counter FIR. In view of this, I am inclined to release the applicant on bail. To allay the fear of the prosecution the applicant can be released on bail by putting some stringent conditions. Hence the following order is passed:

ORDER

- I) Application is allowed.
- II) Applicant be released on PR bond of Rs.25,000/- with one solvent surety in the like amount, in connection with Crime No.74/2021 under Section 302, 307, 326, 324, 323, 143, 147, 148, 149, 504, 506 read with Section 34 of the I.P.C. with Udgir City Police Station, District Latur on condition that he shall not tamper the prosecution evidence and shall not enter Latur District till the conclusion of the trial except for attending the Court on the dates fixed during the trial.

- III) Application for assist to APP is also disposed of.
- IV) These observations are made only for the disposal of this application and the learned trial Court shall not get influenced by these observations and can come to its independent conclusion during trial.

[M.G. SEWLIKAR, J.]