

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

927 BAIL APPLICATION NO.291 OF 2022

1. Shaikh Shakil S/o Shaikh Khalil,
2. Shahin S/o Matin Naik

VERSUS

The State of Maharashtra

Shri. Hamzakhan I. Pathan, Advocate for the applicants
Shri. R. D. Sanap, APP for the respondent/State

**CORAM : M. G. SEWLIKAR, J.
DATED : 10th March, 2022**

PER COURT :-

1. Heard.

2. It is alleged in the FIR that on 22nd November, 2021 at 08.30 p.m. in front of new bus stand applicant No. 1 Shaikh Shakil Shaikh Khalil, applicant No. 2 Shahin S/o Matin Naik, Azhar Oylyat Khan Pathan, Khaja Sadulla Pathan and two sons of Sonu Daud abused him and pelted stone at him. Applicant No. 2 Shahin assaulted him with an iron rod. His brother Kartarsing, Bharat Pawar and Balu Parve along with 2-3 persons came there. On seeing them accused ran away.

3. At 9.30 p.m. applicant No.1 and applicant No. 2 along with Moin Matin Naik, Shain Matin Naik, Jammu Shaikh Khalil, Aref Khalil Shaikh, Jamir Khalil Shaikh and others assaulted him and his brother Kartarsing, his mother Kalikaur and wife Sangitakaur by means of sword, stick and stones. Applicant No. 2. Shahin Matin Naik caused the fired arm injury on the chest of Kartarsing. Applicant No. 1 Shakil assaulted him on his hand by means of a sword due to which he sustained injury on his middle finger of left hand. On these allegations FIR came to be registered against the applicants under Sections 307, 326, 323, 324, 143, 147, 148, 149 of the Indian Penal Code, under Sections 4/25, 3/27 of the Arms Act and under Section 7 of the Criminal Law Amendment Act registered with Kalamnuri Police Station vide Crime No. 0325 of 2021.

4. Charge-sheet is yet not filed. So far as accused No. 2 is concerned. When this Court declined to grant any relief to applicant No. 2, learned counsel Shri. Pathan, on instructions, sought permission to withdraw the application to his extent. Leave granted.

5. So far as applicant No. 1 Shaikh Shakil Shaikh Khalil is concerned it is alleged that he assaulted the informant by means of a sword and caused injury to middle finger of his left hand. On perusal of the medical certificate of Ramsing, the informant, it does not appear that he had sustained any injury by any sharp object. The informant has sustained simple injuries. However, the injury is not by means of a sword. In this view of the matter, I am inclined to allow the application to the extent of applicant No. 1.

6. Learned APP Shri. Sanap for the respondent/State submits that there are criminal antecedents. He submits that 12 crimes are pending against the applicants out of which 3 are under Section 165 of the Maharashtra Prohibition Act and one is under Arms Act. However, it is not clear whether charge-sheets are filed in these crimes. This Court has observed that many a times though offence is registered, charge-sheet is not filed. It is also observed that the crimes in which the applicants/accused are acquitted, still the Investigation Officers show the said crime as pending against the applicants. This practice has been deprecated earlier but there seems to be no improvement. In

the absence of these details, it cannot be said that the applicant has criminal antecedents. Even otherwise antecedents will be considered only when there is *prima facie* case against the accused. In the case at hand no *prima facie* case appears to have been made out at this stage. In this view of the matter, following order is passed.

ORDER

1. Application of applicant No. 2 Shahin S/o Matin Naik is withdrawn.
2. Application of applicant No.1 Shaikh Shakil S/o Shaikh Khalil be released on bail on his furnishing PR bond of Rs. 30,000/- (Rupees Thirteen Thousand only) with one solvent surety in the like amount in connection with CR No. 0325 of 2021 under Sections 307, 326, 323, 324, 143, 147, 148, 149 of the Indian Penal Code, under Sections 4/25, 3/27 of the Arms Act and under Section 7 of the Criminal Law Amendment Act registered with Kalamnuri Police Station, District Hingoli, on condition that he shall not interfere in the investigation, shall not pressurize the witnesses and shall attend the concerned Police Station on every Monday between 11.00 a.m. and 04.00 p.m. till the filing of the charge-sheet. In case of registration of any

offence against applicant No. 1 in the future, the bail shall stand cancelled.

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