

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

BAIL APPLICATION NO. 716 OF 2022

Shahin Matin Naik

..APPLICANT

VERSUS

State of Maharashtra

..RESPONDENT

....
Mr. H.I. Pathan, Advocate for applicant

Mr. S.P. Sonpawale, A.P.P. for respondent - State

....

CORAM : R.G. AVACHAT, J.

DATE : 05th AUGUST, 2022

PER COURT :

1. This is an application for bail under Section 439 of Code of Criminal Procedure. The applicant has been arrested in connection with Crime No. 325 of 2021 registered with Kalamnuri Police Station, Dist. Hingoli for the offences punishable under Sections 307, 326, 323, 324, 143, 147, 148 and 149 of the Indian Penal Code, under Sections 3, 4, 25 and 27 of the Arms Act and under Section 7 of the Criminal Law Amendment Act.

2. Heard. Perused the First Information Report ("F.I.R.") and related police papers.

3. The F.I.R. has been registered by one Ramsing Tak on 23rd November, 2021 in relation to the incident that took place by 08.30 p.m. on

the previous night near New Bus Stand, Kalamnuri. It is the case of the informant that the applicant and his 2-3 friends were present there at that time. The informant was passing on motorbike. The applicant and his associates intercepted him. The informant was assaulted with iron rod. Meanwhile, brother of the informant viz. Kartarsing alongwith Bharat Pawar, Balu Parwe and 2-3 others came there. On having seen their arrival there, the applicant and his associates fled from the scene.

4. It is further alleged in the F.I.R. that by 09.30 p.m. on the same day, the applicant and all the co-accused named in the F.I.R. came together. They were armed with swords, sticks, iron rods and stones as well. They came to the house of the informant. All of them assaulted the informant and his brother Kartarsing. The mother and wife of the informant were also not spared. The applicant herein is alleged to have opened fire from a gun (to bore). Co-accused – Shakil assaulted the informant with sword. Because of the firing, informant's brother suffered chest injury.

5. Learned counsel for the applicant would submit that all co-accused have been granted bail. Investigation is over. Charge-sheet is filed. There is counter case. The informant and his colleagues have been accused therein. Same is the case for offence punishable under Section 307 of the I.P.C. Learned counsel, therefore, urged for grant of the application.

6. Learned A.P.P. would, on the other hand, strongly opposed for grant of application on the ground of seriousness of offence.

7. Considered the submissions advanced. The fact that the incident took place at the house of the informant cannot be lost sight of. The same indicates the applicant and co-accused had been to the house of the informant. As such, they may be the aggressors. Brother of the applicant was injured bore gun shot. All the victims have been discharged from the hospital. All the accused have already been granted bail. Charge-sheet is filed. It will take time for commencement and conclusion of trial.

8. In view of above, the application deserves to be allowed. Hence I pass the following order :-

ORDER

(I) The bail application is allowed.

(II) The applicant be released, in connection with Crime No. 325 of 2021 registered with Kalamnuri Police Station, Dist. Hingoli for the offences punishable under Sections 307, 326, 323, 324, 143, 147, 148 and 149 of the Indian Penal Code, under Sections 3, 4, 25 and 27 of the Arms Act and under Section 7 of the Criminal Law Amendment Act, on executing P.R. Bond in the sum of Rs.15,000/- (Rupees Fifteen Thousand) with one surety in the like amount.

(III) The applicant shall mark his appearance in the concerned police station on every Sunday between 12.00 noon to 01.00 p.m. until conclusion of till.

(IV) The applicant shall not tamper with the prosecution evidence.

(R.G. AVACHAT, J.)

SSD