

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

BAIL APPLICATION NO. 850 OF 2022

Fahim Ibrahim Pathan	... Applicant
Versus	
The State of Maharashtra	... Respondent
....	
Mr. N. S. Ghanekar, Advocate for applicant	
Mr. V. S. Badakh, APP for respondent - State	
....	

CORAM : R. G. AVACHAT, J.

DATED : 11th JULY, 2022

PER COURT :-

1. This is an application for bail under Section 439 of the Code of Criminal Procedure. The applicant has been arrested in connection with Crime No.0126/2022, registered with Paithan Police Station, District Aurangabad, for the offence punishable under Sections 307, 143, 144, 148, 149, 336, 504 of the Indian Penal Code.

2. Heard.

Perused the First Information Report (FIR) and the related police papers. The learned Advocate for the applicant would submit that the applicant is an Advocate by profession. On the given

day, he was in Court until Court hours are over. The distance between the Court and his residence is of about one and half hours drive. On way home, the applicant had halted at two places. His presence at those places is evident from CCTV footage. The learned Advocate meant to say that the applicant has been falsely implicated in the offence in question. On the merits of the case, he would submit that the victim has been discharged from hospital within three days. The assault was not on vital parts of the body. The co-accused has been granted bail. He, therefore, urged for grant of application.

3. Learned APP would, on the other hand, submit that the defence of alibi would be the matter of evidence. The name of the applicant has been figured in the FIR as the main culprit. He wielded a sword. The victim suffered multiple injuries. Investigation is in progress. He, therefore, urged for rejection of the application.

4. Considered the submissions. The applicant is an Advocate by profession. He claimed to have been on Court premises until work hours are over. The incident took place by 6.30 p.m. The place of incident and the Court is of one and half hours of drive. On

way, the applicant claimed to have halted at more than two places. He has placed on record the CCTV footage. Two pictures placed on record indicate that at 5.15 p.m., he was at a particular place on way home. This piece of evidence would not be sufficient to make out his case of alibi. Be that as it may.

5. The FIR has been lodged by the victim himself in the hospital on the next day of the incident. It is his case that the applicant, his father and four others came together. The applicant's father instigated others to assault the informant. The applicant allegedly assaulted the informant with a sword.

6. Admittedly, the informant has been discharged from hospital on the third day of his admission to the hospital. Injury certificate indicates him to have received injury on his thigh, left forearm, middle back, left shoulder and left hand. Four of the injuries are stated to be grievous in nature caused by hard and sharp object. It is just difficult to imagine as to how the same injury can be caused by hard or sharp object. Be that as it may.

7. Since the informant has been discharged from the hospital within three days and the applicant having been behind the

bars for little over two months, moreover, it would be a matter of evidence as to whether the alleged act constitutes an attempt of murder, I am inclined to grant the applicant, bail. Hence, following order.

ORDER

- (i) The Bail Application is allowed.
- (ii) The applicant shall be released on bail in connection with Crime No.0126/2022, registered with Paithan Police Station, District Aurangabad, for the offence punishable under Sections 307, 143, 144, 148, 149, 336, 504 of the Indian Penal Code on his executing P. R. bond in the sum of Rs.15,000/- (Rupees Fifteen Thousand) with surety bond in the like amount.
- (iii) The applicant shall not tamper with the prosecution evidence.

[R. G. AVACHAT, J.]