

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

BAIL APPLICATION NO. 939 OF 2022

1. Moshin Kasam @ Kasambhai Sayyad
Age: 22 years, Occu.: Business,
2. Kasam @ Kasambhai Sayyadbhai Sayyad
Age: 47 years, Occu.: Business,

Both R/o Kanadgaon, Tq. Rahuri,
Dist. Ahmednagar

..APPLICANTS

VERSUS

State of Maharashtra

..RESPONDENT

....
Mr. Y.B. Pathan, Advocate for applicants
Mr. A.V. Deshmukh, A.P.P. for respondent - State
....

**CORAM : R.G. AVACHAT, J.
DATE : 29th JULY, 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. 31 of 2022 registered with Rahuri Police Station, Dist. Ahmednagar for the offences punishable under Sections 307, 324, 504, 506 read with Section 34 of the Indian Penal Code.

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

3. The F.I.R. has been lodged by one Salman Nasir Syed on 14th January, 2022 by 10.00 p.m. in relation to the incident that took place on 11th January, 2022. It is his case that he was resident of village Kanadgaon, Tq. Rahuri. In the village, there is a “Sherkhawali Baba Darga”. A devotee had offered twenty one goats to “Sherkhawali Baba” on 11th January, 2022. His family members have right and privilege to slaughter/sacrifice goats offered. The informant’s father - Nasir and brother – Alim slaughtered twenty one goats on that day by 06.30 p.m. That time there was a quarrel amongst the informant’s father - Nasir, brother - Alim, uncle - Moshin and cousin grandfather – Kasam. The quarrel was settled then and there. The informant had been to the field by 07.30 p.m. same day for watering the maize crop. Applicant – Moshin assaulted him on his ribs with a knife. The informant’s cell phone had fallen down. Moshin had taken it. To fetch the said cell phone, Shabnam, Shaynaz and Asu (victims) had been to the house of Moshin and to reasoned with him. Thereupon, Shakil, Kasam, Moshin and Harun got together. Harun assaulted on the stomach of Shabnam with a knife. When she raised cries, her aunt Shahnaz came there, as she was crossing thereby. Kasam assaulted on her head with an axe. In the F.I.R. the informant has given details of the manner in which the applicant and co-accused had beaten up the informant’s family members.

4. Learned counsel for the applicant would submit that there is delay of three days in lodging the F.I.R. The relations between the two families are not good. The offence took place in January. The charge-sheet has been filed after investigation of the crime. The applicants have not been attributed with any serious overt act. He, therefore, urged for grant of application.

5. Learned A.P.P would, on the other hand, urge for rejection of the application since it is an offence punishable under Section 307 of the I.P.C.

6. Considered the submissions advanced. All was not well between the two families. The incident took place on 11th January, 2022. The F.I.R. has been lodged three days thereafter. Bid on the life of Shabnam is attributed to Harun. Shabnam suffered grievous injury to her stomach. Harun is not before this Court. Injury certificates of others indicate them to have suffered simple injuries. Victims have been discharged from the hospital. Applicant No.1 – Moshin is twenty two years of age. His criminal liability for the offence punishable under Section 307 of the I.P.C. is sought to be invoked with the aid of Section 149 of the I.P.C. The applicants have been behind the bars for little over 6-7 months. It will take time for commencement and conclusion of the trial.

7. 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 applicants be released, in connection with Crime No. 31 of 2022 registered with Rahuri Police Station, Dist. Ahmednagar for the offences punishable under Sections 307, 324, 504, 506 read with Section 34 of the Indian Penal Code, on executing PR. Bonds in the sum of Rs.15,000/- (Rupees Fifteen Thousand) each with one surety each in the like amount.

(III) The applicants shall not tamper with the prosecution evidence.

(R.G. AVACHAT, J.)

SSD