

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

BAIL APPLICATION NO.1117 OF 2022

1. Abdul Raheman Chous,
 2. Ibrahim Abdul Chous,
 3. Ismail Abdul Raheman Chous
- ..Applicants

Vs.

The State of Maharashtra and anr. ..Respondents

Mr.M.C.Ghode, Advocate for applicants
Mr.S.P.Sonpavale, APP for respondents assisted by Mr.D.U.Manvatkar,
Advocate for informant

**CORAM : R.G. AVACHAT, J.
DATE : AUGUST 20, 2022**

ORDER :-

This is an application under Section 439 of the Code of Criminal Procedure. The applicants have been arrested in connection with Crime No.0218 of 2022 registered with Tembhurni Police Station, Dist. Jalna.

2. Heard learned counsel appearing for the parties.

3. The First Information Report (FIR) has been lodged on 24.06.2022. The incident took place by 09.30 p.m. on the very day. The informant was present at his flour mill. The applicants were also present in the nearby since they are neighbors of the informant. The

informant's sister Safiya had come out of the house to call family children back home. The co-accused – Ali allegedly made some gestures at her. Thereupon, the brother of the informant questioned the co-accused – Ali, whether he did not have sister. Thereupon, co-accused – Ali started abusing the informant's brother. The informant and his father tried to pacify him. By that time, the applicants came there. They entered the house of the informant and beat up the informant, the informant's brother and father. It was the co-accused – Ali, who wielded knife and rained blows thereof on the father of the informant. The applicants herein allegedly beat up the informant and his father with fists and sticks as well.

4. Learned counsel for the applicants would submit that the nature of the offence committed by the present applicants would, at the most, be punishable under Section 323 of Indian Penal Code. The co-accused-Ali, who had assaulted with knife, is not before this court. The applicants have been behind the bar for little over two months. He, therefore, urged for grant of bail.

5. Learned APP and learned counsel for the intervenor would, on the other hand, submit that it was bid on the life of the father of the informant. The co-accused – Ali is absconding. If the

applicants are granted bail, there is every possibility of evidence being tampered with. Learned counsel for the intervenor adverted this Court's attention to the observations made by learned Addl. Sessions Judge in the order refusing the applicants bail. Both learned counsel, therefore, urged for rejection of the application.

6. Perused the FIR and considered the submissions advanced.

7. The co-accused – Ali has been attributed with the assault by knife. He is not before the court. The applicants herein beat up the informant and his father with fists and stick. The nature of the injuries suffered are said to be simple in nature. The applicants have been behind the bars for about two months. Their criminal liability for offence under Section 307 of Indian Penal Code is said to be invoked with the aid of Section 34 of Indian Penal Code.

8. Considering the role played by the applicants in the offence in question and they have been behind the bars for about two months, this Court is inclined to grant them bail.

9. Hence, the following order:-

(i) The application is allowed.

(ii) The applicants be released in connection with Crime No.0218 of 2022 registered with Tembhurni Police Station, Dist. Jalna, on executing P.R. Bond 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 in any manner.

[R.G. AVACHAT, J.]

KBP