

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

928 BAIL APPLICATION NO.1815 OF 2022

SUSHIL BHAJAN KATE
VERSUS
THE STATE OF MAHARASHTRA

WITH

BAIL APPLICATION NO.1764 OF 2022

VIKAS SHESHRAO MISAL
VERSUS
THE STATE OF MAHARASHTRA

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Advocates for Applicants : Mr. Ade Ravindra B., Mr. Gadekar
Vishal, respectively.

APP for Respondent-State : Mr. S. B. Narwade.

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CORAM : S. G. MEHARE, J.
DATE : 22.11.2022

PER COURT :-

1. Heard the learned counsels for the applicants and the learned APP for the respondent-State.

2. The incident happened on 14.05.2022. The injured Rameshwar gave the statement on 18.05.2022. That time, he did not state the name of the applicant Vikas Sheshrao Misal. However, subsequently on 18.06.2022, he stated in the statement that in the assailants, applicant Vikas Sheshrao Misal was also there. As far as the allegations against the applicant

Sushil Kate is concerned, it has been alleged against him that he and other persons assaulted the injured with sticks and gave the kicks and blows.

3. Learned counsels for the applicants would submit that the applicant Vikas has been arraigned as an accused only for the reason that some crimes are to his discredit and against applicant Sushil Kate, there is only one crime. Both of them have been arraigned as accused after-thought. The false recovery of the weapons have been shown from them. They are languishing in jail since 18.06.2022 and 09.07.2022, respectively. There is no substantial evidence against them. Hence, they may be released on bail.

4. Learned APP has strongly opposed the applications. He would submit that the applicants have played the active role in committing the crime. There are antecedents to their discredit. They are resident of the same village; therefore, possibility of repeating the crime cannot be ruled out. The weapons have been recovered from both applicants. Considering the gravity of the offence, they may not be granted bail.

5. Admittedly, similarly situated co-accused Vijay Misal has been granted bail. Applicant Vikas Misal has been arraigned as

an accused after around one month of the incident. His name was not immediately disclosed. In such situation, antecedents to their discredit may not come in their way for bail. The material investigation is over. Therefore, both applications deserve to be allowed. Hence, the following order :

ORDER

- (i) Bail Applications are allowed.
- (ii) Applicant **SUSHIL BHAJAN KATE** in Bail Application No.1815 of 2022 and applicant **VIKAS SHESHRAO MISAL** in Bail Application No.1764 of 2022 be released on bail on furnishing P.B. and S.B. of Rs.50,000/- (Rupees Fifty Thousand only) each with one solvent surety of the like amount each, in Crime No.105 of 2022, registered by Police Station M.I.D.C. Paithan, District Aurangabad, for the offences punishable under Sections 307, 326, 324, 143, 147, 148, 149, 427 read with Section 34 of the IPC on the following conditions :
 - (a) They shall not tamper with the prosecution witnesses.

- (b) They shall not contact any witness in any way.

(S. G. MEHARE, J.)

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vmk/-