

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

ANTICIPATORY BAIL APPLICATION NO.1612 OF 2021

- 1) Shaikh Salim S/o Shaikh Sadulla,
- 2) Shaikh Khaja S/o Shaikh Sadulla,
- 3) Shaikh Khaja @ Bablu S/o Shaikh Sattar

...APPLICANTS

VERSUS

The State of Maharashtra

...RESPONDENT

...
Mr.H.I. Pathan Advocate for Applicants.
Mr.V.M. Kagne, A.P.P. for Respondent-State.
...

CORAM: SMT. VIBHA KANKANWADI, J.

DATE : 6th JANUARY, 2022

ORDER :

1. Learned Advocate for the applicants submits that applicant No.3 – Shaikh Khaja @ Bablu S/o Shaikh Sattar was arrested and released on bail by the trial Court and therefore, he states that Application has become infructuous against applicant No.3.

2. Present Application has been filed under Section 438 of the Code of Criminal Procedure by accused Nos. 4 and 18 as they are apprehending arrest in Crime No. 325 of 2021 dated 23rd November 2021, registered with Police Station Kalamnuri, District-Hingoli for the offence punishable under Sections 307, 326, 323, 324, 143, 147, 148, 149 of the Indian Penal Code and under Sections 3, 4, 25 and 27 of the Arms Act and under Section 7 of Criminal Law Amendment Act.

3. Perusal of the First Information Report lodged by one Ramsing Hatyarsing Tak would reveal about two incidents, out of which first incident had taken place at 8.30 p.m. near new bus stand, Kalamnuri on 22nd November 2021. It shows that one Shaeen Matin Naik had assaulted him on his right leg with the help of iron rod. Though the presence of applicant No.2 has been stated, no specific role is attributed to him. Thereafter, the informant states that he went to Gurudwara around 9.30 p.m. and at that time the other accused persons including applicant No.1 came and he stated that they were holding sword, stick and stone and other weapons. Specific weapon and role appears to be not assigned to applicant No.1. It is further stated that said Shaeen Matin Naik had then inflicted bullet injury to one

Kartarsing on his chest. Co-accused Shakil had assaulted informant by sword causing him injury to the middle finger of left hand. Then it is stated that the other accused persons had assaulted informant's mother and wife with stick and stones.

4. Therefore, taking into consideration these allegations, the physical custody of the applicants may not be required for the purpose of investigation. Another fact to be noted is that Crime No.324 of 2021 appears to have been registered with the same police station on the same date at about 6.10 a.m. i.e. prior in time to the present First Information Report, for the offence punishable under Sections 307, 326, 336, 427, 143, 147, 148, 149, 452, 341 of the Indian Penal Code and under Sections 3, 4, 25 and 27 of the Arms Act and under Section 7 of Criminal Law Amendment Act against about 19 persons in respect of the incident that had allegedly taken place at 8.50 p.m. on 22nd November, 2021. Accused No.11 in that First Information Report is the informant in the present First Information Report. Therefore, Application in respect of applicant Nos.1 and 2 deserves to be allowed but by imposing stringent conditions on the applicants. Hence following order:-

ORDER

i) Application stands allowed in respect of applicant Nos.1 and 2, and stands disposed of as against applicant No.3 as infructuous.

ii) Interim order passed by this Court on 28th December 2021 in respect of applicant No.2 – Shaikh Khaja S/o Shaikh Sadulla stands confirmed. It is, therefore, clarified that if the applicant No.2 is not yet arrested, then in the event of his arrest in connection with Crime No. 325 of 2021 dated 23rd November 2021, registered with Police Station Kalamnuri, District-Hingoli for the offence punishable under Sections 307, 326, 323, 324, 143, 147, 148, 149 of the Indian Penal Code and under Sections 3, 4, 25 and 27 of the Arms Act and under Section 7 of Criminal Law Amendment Act, he be released on bail on PR Bond of Rs.20,000/- with one surety in the like amount, on the same conditions.

iii) As regards applicant No.1 – Shaikh Salim S/o Shaikh Sadulla also, in the event of his arrest in connection with Crime No. 325 of 2021 dated 23rd November 2021, registered with

Police Station Kalamnuri, District-Hingoli for the offence punishable under Sections 307, 326, 323, 324, 143, 147, 148, 149 of the Indian Penal Code and under Sections 3, 4, 25 and 27 of the Arms Act and under Section 7 of Criminal Law Amendment Act, he be released on bail on PR Bond of Rs.20,000/- with one surety in the like amount, on the same conditions which were imposed on applicant No.2 at the time of releasing him on bail by order dated 28th December 2021.

[SMT. VIBHA KANKANWADI , J.]

asb/JAN22