

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

**BAIL APPLICATION NO.242 OF 2023
WITH APPLN/648/2023 IN BA/242/2023**

1. Shaikh Sattar Shaikh Sardar

2. Shaikh Ansar Shaikh Sattar ...Applicants

Versus

The State of Maharashtra ...Respondent

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Advocate for Applicants : Mr. Ghanekar Nilesh S.

APP for Respondent/State : Mr. S.P. Sonpawale

Advocate for Complainant/Assist to PP : Mr. J.M. Murkute

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CORAM : S.G. MEHARE, J.

DATED : FEBRUARY 22, 2023

PER COURT:-

1. Heard learned counsel for the applicants, learned APP for the State and learned counsel for the complainant.

2. The applicants are seeking bail in Crime No.471 of 2022 registered for the offences punishable under Section 307, 326, 120(B), 143, 147, 148, 149, 201 of the Indian Penal Code read with Section 135 of the Maharashtra Police Act.

3. The vehement arguments of the applicants is that there are discrepancies in the allegations levelled against the applicants. The witnesses are also inconsistent as regards the use of weapons by the applicants. The offence under Section 307 is not made out. The

applicants and the injured have a dispute over the shop. The injured had also assaulted the applicants. Applicant Sattar is physically challenged. He use artificial foot. He has referred to various documents, statements and CCTV footage transcription. He has also referred to some CCTV footage and argued that the opponents were also armed with weapons on the day of incident. He has pointed out that there were no incriminating circumstances against the applicants. The complainant is a influential person. He get managed the police station and registered the false crime against them only with a view to see them behind the bar. The weapons have been recovered. The injured have been discharged long back. The injured anyhow want to grab the property in which the complainant has his office. The applicants have also suffered serious injuries. They are behind bar as they are poor and have no political support. They are ready to stay away from their residence, if they would be enlarged on bail. On these facts, he claims the bail.

4. Per contra, learned APP has argued that there is direct evidence against the applicants. They were most aggressive. They have been repeatedly involved in various similar crimes. They have assaulted the ex-corporator.

5. Learned counsel for the complainant referred to the earlier F.I.R and N.C. reports against the applicants. He has vehemently argued that the CCTV footage transcription reveals that

the applicants were prepared to commit the offence. They were armed with the deadly weapons. They have immediately used it and assaulted the injured. The deadly weapons have been used in the crime. The discrepancies in naming the person holding the peculiar weapon does not make the case false. He has also referred to the photographs of the injured. He would argue that the applicants have not beaten the injured but also there are cases against them on the report of other persons. The applicants have created the terror in the locality. The possibility of repeating the crime severe than the crime they have committed. The applicants are bent upon to eliminate the complainant. Therefore, it is harmful to release them on bail.

6. Perused the charge sheet. The statement of the witnesses though have some discrepancies as regards the weapons used by each accused, reveals that the incident happened. The CCTV footage further supports the prosecution case that the accused were prepared with arms and they have used the same to assault the injured. To attract Section 307 of the Indian Penal Code, the injury is immaterial. The record reveals that the applicants were aggressive. There are antecedents to their discredit. Both groups appears to have disturbed the law and orders of the locality. The possibility of committing a similar crime of assault by the rival group cannot be ruled out. The overall material placed on record reveals that this is not a fit case to

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grant the bail to the applicants. Hence, the application stands dismissed.

7. Criminal Application No.648 of 2023 stands disposed of.

(S.G. MEHARE, J.)

Mujaheed//