

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

BAIL APPLICATION NO.753 OF 2023

SALMAN @ AZHAR BABU PATHAN AND OTHERS  
VERSUS  
THE STATE OF MAHARASHTRA

...  
Advocate for Applicants : Ms. Afreen R. Shaikh  
APP for Respondent : Mr. S. B. Narwade  
...

**CORAM : S. G. MEHARE, J.**

**DATE : 04-05-2023**

**PER COURT :-**

1. Yesterday, when the learned counsel for the applicants started argument, Mr. Rahul M. Gaikwad, learned counsel suddenly stood and stated that he has instructions to appear for the complainant. He was ready to argue the matter today by filing appropriate application.

2. Today, Mr. P. M. Gaikwad, learned counsel appeared and states that appropriate application is yet to be filed and he is requesting for time.

3. The bail application was filed on 19.04.2023. Since then, it is pending. It seems that the complainant has no *bona fide* intention to oppose the application. The summer vacation are approaching and today is the last working day. The possibility of ill-intention to

see the accused behind bar by approaching the Court on the last day of the Summer Vacation, cannot be ruled out. Considering the conduct of the complainant, the request of the learned counsel, who has instructions to appear for the complainant stands dismissed. The matter is heard on merit.

4. Heard the learned counsel for the applicant and the learned A.P.P. for the respondent/State.

5. The applicants are seeking bail in C.R.No.0602 of 2022 registered with Akahada Balapur Police Station, Taluka and District Hingoli, for the offences punishable under Sections 307, 326, 324, 323, 143, 147, 148, 149, 452, 504 and 506 of the Indian Penal Code and Section 302 of the Indian Penal Code has been added.

6. Perused the papers. There were counter reports against each other. Both sides are relatives. As per the allegations, it appears that they had differences over proposing the candidate in Ward No.2 for the Village Panchayat Election. The incident happened near Bus-stand where one Shaikh Aref Shaikh Tayyab was taking walk. He alleged that the complainant and the injured in this case started assaulting him with weapons like iron rod. Then his brother came there and both of them assaulted each other. The persons from both sides suffered grievous injuries. However, injured Shaikh Tabdil died after one month of the incident. *Prima facie*, it is not sure that the cause of his death was

due to the injuries suffered to him. Many persons from both sides are languishing in jail. The weapons allegedly in the crime have also been recovered. The general allegations have been levelled in the first information report that all the accused assaulted the injured and the family members of the first informant. It was a riot. Therefore, the specific allegations are not expected. There are no antecedents to the discredit of the applicants. They are languishing in jail from 29.12.2022, 31.12.2022, 05.01.2023 and 06.01.2023. Considering the nature of quarrel and the bulky investigation papers, there are no hopes of conclusion of the trial in near future. Considering the role allegedly attributed to the applicants, the Court is of the view that the detention of the applicants would serve no purpose. However, certain conditions may be imposed to maintain the law and order. Hence, the order:-

- i) The application is allowed.
- ii) Applicants Nos. (1) Salman @ Azhar Babu Pathan, (2) Shekh Mujahir s/o. Shekh Anwar, (3) Shekh Afroz s/o. Shaikh Gause, (4) Shekh Gause s/o. Shekh Rahuf, (5) Shekh Riyaz Shekh Mukatalim, be released on bail, on furnishing PB and SB of Rs.50,000/- each, with one solvent surety of like amount, in C.R.No.0602 of 2022, registered with Akahada Balapur Police Station, Taluka and District Hingoli, for the aforesaid offences, on the conditions that,

- (a) They shall not enter the village Kandali, Taluka Kalamnuri, District Hingoli, for one month from their release.
- (b) They shall not tamper with the prosecution witnesses.
- (c) They shall not involve in the similar crime.

**( S. G. MEHARE )**  
**JUDGE**

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