

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

922 BAIL APPLICATION NO.848 OF 2023
WITH APPLN/1936/2023 IN BA/848/2023

SHAIKH AKRAM AHMED S/O. KHURSHID AHMED
VERSUS
THE STATE OF MAHARASHTRA

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Advocate for Applicant : Mr. Bhapkar Sanjay Laxman.
APP for Respondent-State : Mr. S. P. Deshmukh.
Advocate for Complainant to assist APP : Mr. Shaikh Mazhar A.
Jahagirdar.

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CORAM : S. G. MEHARE, J.
DATE : 27.06.2023

PER COURT :-

1. Heard the learned counsel for the applicant, learned APP for the respondent-State and learned counsel for the complainant.

2. This is a successive bail application of the applicant seeking bail in Crime No.74 of 2021, registered at Udgir City Police Station, District Latur, for the offences punishable under Sections 302, 307, 326, 324, 323, 143, 147, 148, 149, 504, 506 of the IPC.

3. The applicant is seeking parity. He is also seeking bail on the ground that there is no progress in the trial. Hence, he is

entitled to claim the bail, as this Court passed an order dated 06.10.2021, in Bail Application No.856 of 2021 that, “If the trial is not concluded within ten months from the date of the order, he is at liberty to make application for regular bail before the concerned Court.”

4. Learned counsel for the applicant has referred to the bail order of this Court passed in Bail Application No.8 of 2022 filed by Imran Khurshid Ahemad Shaikh, dated 16.02.2022. Relying on the observations recorded by this Court, the applicant claimed that the applicant is similarly situated to the said accused Imran. Hence, he may be granted bail on parity. Secondly, he would argue that there is no material progress in the trial. The applicant is behind bar since last two years. The witnesses are at variance as to the role played by the applicant. However, the applicant has played the role in pelting stone as alleged. Therefore, the statement of the witnesses that accused assaulted the injured with knife would not be considered. He also argued that there are no hopes of concluding the trial in near future. Therefore, he may be granted bail.

5. Learned APP and the learned counsel for the complainant have strongly opposed the application. They would argue that the role played by the applicant is not similar

to the role played by the co-accused Imran, who has been granted bail. He would point out that immediately after the incident, the applicant with co-accused tried to flee away. The police intercepted their car. He tried to kill the police and separate crime of the said incident was registered against him. Co-accused Imran was granted bail, since there were no antecedents to his discredit. However, there are two crimes registered against the applicant. The applicant was the key accused, at whose instance, the entire incident happened. They also argued that the order granting bail to Imran is impugned before the Supreme Court and it is pending.

6. As far as parity is concerned, apparently there is no similarity in the role attributed to Imran and the applicant. The present applicant has a bad past with the crimes to his discredit. The another obstacle for the applicant is that immediately after the incident, he tried to flee away and did not respond to the police, who tried to intercept their car. The serious crime was registered against him for attempt to murder the public servant. As far as the progress in the trial is concerned, the progress report of the Incharge Additional Sessions Judge, Udgir reveals that most of the time Judicial Officer was on leave and then the applications for bail were

filed by co-accused and those were heard and decided. The charge has been framed. The matter is part heard. The most important aspect is that the Court in which the trial is pending is vacant. This seems not to be a deliberate delay in trial. The learned counsel for the applicant would submit that in the counter case, the muddemal is yet not received. Hence, there is no possibility of the speedy trial. In cross cases, the Court has to hear and complete one case and then open the another. Therefore, the second case, in which, the muddemal is received may not be hurdle in conducting the trial of this applicant. The Court is not satisfied with the arguments of the learned counsel for the applicant that there were change-in-circumstances and the trial was protracted deliberately. The applicant does not deserve parity for the reasons mentioned above.

7. Hence, the bail application stands dismissed.

8. Learned Principal District and Sessions Judge, Latur is directed to transfer the case to the Court of Udgir, if another Judicial Officer is available and if not make over it to the competent Court at Latur, so matter may be expedited.

9. Criminal application No.1936 of 2023 to assist the learned APP is allowed.

(S. G. MEHARE, J.)

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