

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

**BAIL APPLICATION NO. 1213 OF 2023
WITH APPLN/2855/2023**

1. Anandsingh s/o Kanayasingh Tak
2. Sultansingh s/o Kanayasingh Tak
3. Sarjitsingh s/o Kanayasingh Tak ...Applicants

VERSUS

The State of Maharashtra ...Respondent

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Mr. Gore Ravindra Vitthal, Advocate for the applicants.

Mr. S.P. Deshmukh, APP for the respondent-State.

Mr. B.A. Shinde, Advocate for Assist to PP.

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CORAM : S.G. MEHARE, J.

DATED : AUGUST 02, 2023

PER COURT:-

1. Heard learned counsel for the applicants, learned APP for the State and learned counsel for the victim.
2. The applicants are seeking bail in Crime No.342 of 2022 registered with Manwat Police Station, District Parbhani for the offence punishable under Sections 302, 326, 143, 144, 148, 149, 506 of the Indian Penal Code and Section 4/25 of the Arms Act.
3. Learned counsel for the victim has strongly opposed the application. He would argue that before the incident happened, all the accused went to the house of father of the deceased and one of the applicant – Sultansingh was there with sword in his hands. They

threatened the father of the deceased that they would kill the deceased and then they proceeded to the spot of the incident. That apart, the accused who have been granted bail are threatening the witnesses. The report has been lodged against them. There are antecedents to the discredit of the applicant – Sultansingh. The witnesses have apprehension of threats at the hands of the accused. The offence is serious and no parity would be extended to the present applicants.

4. As against the objections of learned counsel for the victim, learned counsel for the applicants would submit that the statement of father of the deceased was recorded around 8 days after the incident. The FIR also reveals that the father of the deceased made a phone call to the deceased, who told him that all the accused came to his home. However, at the time of the alleged incident, the first informant did not state that the present applicants were holding the weapons. There are no allegations of actual assault by the applicants to the deceased.

5. Considering the facts of the case, similarly situated co-accused have been granted bail. As far as the cases against the applicant – Sultansingh is concerned, those are under the Maharashtra Prohibition Act. The law is well settled that the registration of the crime against the accused may not be a ground to refuse the bail. The Court has to examine the role attributed to the

applicant in the crime in which the accused is claiming bail. After having gone through the papers and the allegations levelled against the applicants about the actual incident, the Court is of the view that the applicants deserve parity and bail on merit. However to guard the witnesses, certain conditions may be imposed. Hence, the following order :

ORDER

- (i) Bail Application is allowed.
- (ii) The applicants, (1) Anandsingh s/o Kanayasingh Tak (2) Sultansingh s/o Kanayasingh Tak and (3) Sarjitsingh s/o Kanayasingh Tak, be released on bail on executing P.B. and S.B. of Rs.50,000/- (Rupees fifty thousand) each with one solvent surety in the like amount each in connection with the above crime, on the conditions that they shall not tamper with the prosecution witnesses.
- (iii) The applicants shall attend the trial on each effective date.
- (iv) The applicants shall stay away from Manwat City for three months from the date of their release.
- (v) Office is directed to receive the Application for Assist to PP.
- (vi) Criminal Application No.2855 of 2023 is allowed.

(S.G. MEHARE, J.)