

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

9 BAIL APPLICATION NO.1845 OF 2023
WITH APPLN/3948/2023 IN BA/1845/2023

MOHAMMED CHAND SHAIKH AND ANOTHER
VERSUS
THE STATE OF MAHARASHTRA

...

Advocate for Applicants : Mr. Saeed S. Shaikh
APP for Respondents: Mr. S.P. Deshmukh.
Advocate for complainant : Mr. R.G. Nirmal h/f. Mr. S.S. Gangakhedkar.

CORAM : S.G. CHAPALGAONKAR, J.

DATE : 2nd NOVEMBER, 2023

ORDER :-

1. The applicants seek regular bail in connection with crime No. 207 of 2023, registered with Police station Lohara, District Osmanabad, for the offences punishable under sections 323, 325, 326, 504 and 34 of IPC and section 4/25 of the Arms Act.

2. The learned advocate appearing for the applicant seeks permission to withdraw this application to the extent of applicant No.1, with liberty to approach the Sessions court, after filing of charge sheet. The application is disposed of as withdrawn with liberty as prayed for so far as applicant No.1 is concerned.

3. The learned counsel for the applicant however persuaded this Court to consider the application for applicant No.2.

4. The investigation was set in motion on the basis of the information given by Riyaz Shaikh, who alleged that on 31st August, 2023 while he was at his home. Accused No.2 Mohd Chand Shaikh and his father Chand Shaikh arrived at their home and called his father out of the home. Accused Chand was asking as to why father of the informant has not contributed towards construction of Masjid and hurled abuses. When father of the informant resisted him, accused Mohammad dragged the father of the informant. Thereafter, the accused Chand Shaikh gave a blow of fists and kicks to the informant. Accused Mohammad brought knife from his home and inflicted injury on informant's thumb, so also, on right hand finger and thigh of the informant's father. Thereafter, some persons intervened and separated the quarrel. On the basis of the aforesaid information Crime No. 207 of 2023 dated 1.9.2023 came to be registered with police station, Lohara, Dist. Oamsnabad. The applicants have been arrested in pursuance of the registration of FIR on 1.9.2023. Since then the applicants are behind bars.

3. Mr. Syed Shaikh, learned advocate appearing for the applicant would submit that the applicant has been falsely implicated in aforesaid crime. He would submit that there was some dispute regarding the Accounts to be maintained in respect of construction work of the Masjid and for that reason, the applicant has been falsely implicated. He would submit that so far as applicant No.2 is concerned, he is alleged to have given fists and kick blows to informant. There is no allegation against respondent No.2 like use of any weapon or causing any bleeding injury to the informant or his father. He would, therefore, urge that the applicant No.2 is entitled for grant of bail.

4. Learned APP, as well as the learned advocate appearing for the informant oppose the prayer stating that there are specific allegations in the FIR against the applicant. Section 34 of IPC is invoked. Both the applicants came together with common intention and caused serious/bleeding injury to the father of the informant.

5. Having considered the submissions advanced, apparently, allegations against applicant Chand are only to the extent giving kick and fist blows to informant. There is no allegation that he was holding any weapon in his hand. The injury certificate of the informant shows that he sustained only injury i.e. incised wound, attributed to use of sharp weapon. It suggests that allegations against the applicant No.2 are not supported by medical evidence. In that view of the matter, there is no reason to continue further detention of the applicant No.2. A case is made out for grant of bail, however, subject to certain conditions.

O R D E R

(i) The Bail application, so far as applicant No.1 is concerned is disposed of as withdrawn.

(ii) Applicant No.2 - Chand Ajmoddin Shaikh, be released on bail on furnishing P.B. and S.B. of Rs. 50,000/- with one solvent surety of the like amount, in connection with Crime No. 207 of 2023 registered with Police Station Lohara, Dist. Osmanabad for the offences punishable under Sections 323, 325, 326, 504 and 34 of IPC and Section 4/25 of the Arms Act, on the following conditions :-

[a] The applicant No.2 shall not tamper with the prosecution evidence.

[b] The applicant No.2 shall attend the police station once in a week on every Monday between 10.00 a.m. and 2.00 p.m. till filing of charge

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9 sr.no..odt

sheet.

[c] The application stands disposed of.

[S.G. CHAPALGAONKAR]
JUDGE

grt/-