

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

BAIL APPLICATION NO.1974 OF 2023

SHABIR SHARIF SHAIKH AND ANTOHER
VERSUS
THE STATE OF MAHARASHTRA

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Advocate for Applicants : Mr. Shaikh Mazhar A. Jahagirdar
APP for Respondents: Mr. S.P. Deshmukh.

CORAM : S.G. CHAPALGAONKAR, J.

DATE : 8TH NOVEMBER, 2023

ORDER :-

1. The applicants seek bail in connection with Crime No. 76 of 2023 registered with Supa Police Station, Dist. Ahmednagar for the offences punishable under Sections 307, 324, 143, 147, 148, 149, 504, 506 of IPC and under Sections 4 and 25 of the Arms Act.

2. The investigation was set in motion on the basis of complaint given by Vishal Karbhari Lande, wherein, he alleges that on 13th March, 2023, while he was in the college campus, there was some dispute between Dishan Javed Shaikh and Akshay Thorat. Akshay was asking Dishan Javed to stop misbehaving with the girl students. They had a scuffle. Thereafter, Dishan Javed left the place and threatened Akshay with dire consequences. On the same day, at about 4.00 p.m. the accused persons followed informant and Akshay. Accused Shabir Shaikh and Ayaz Shaikh caused head injury to Akshay by means of a sickle from its blunt side. They also beat Aniket Takle by kick and fist blows. Akshay

suffered bleeding injuries. He was shifted to hospital. In pursuance of aforesaid report, Crime No. 76 of 2023 came to be registered against in all 9 accused persons including the present applicants. The applicants have been arrested on 22nd August, 2023. Their plea for grant of bail has been rejected by the Sessions Judge, Ahmednagar. Hence the present application.

3. Mr. Shaikh Mazhar A. Jahagirdar, learned advocate for the applicants would submit that applicants are students having no criminal antecedents. They have been falsely implicated in the subject offence. He would submit that the statement of the first informant is inconsistent with the statement of Akshay Thorat as regards stab injury. He would submit that injured Akshay Thorat, in his statement alleges that accused Ajay Barde inflicted injury of stick on his head and further alleges the applicants to be assailants using sickle. He would further point out that the medical evidence on record shows *“Non displaced linear fracture of head alongwith mild right subdural hematoma”* which is attributable to hard and blunt object. He would submit that if allegation against both the applicants are considered, the version of the prosecution is inconsistent with the medical evidence on record. In that view of the matter, as the investigation is complete and charge sheet is already filed, the applicants are ready to abide by any condition as imposed by this Court. Hence, he urges to release the applicants on bail.

4. The learned APP strongly opposes the prayer for grant of bail. He would invite attention of this court to the statements of the eye witnesses, wherein, consistent role is attributed against the applicant in the commission of offence. He would point out that the sickle was used

with blunt side, therefore, there is no injury attributable to sharp side. The victim Akshay suffered serious injuries. The accused person made a planned attack with pre-meditation. Therefore, offences as alleged would attract in the present case. He, therefore, prays for rejection of the application.

5. Having considered the submissions advanced, the incident is of March, 2023. The injured Akshay was admitted in hospital. Two grievous injuries are seen on the head viz. mild right subdural hematoma and non-displaced linear fracture. So far as the author of the aforesaid injuries is concerned, statement in the FIR, makes attributions against the applicants commonly that they inflicted blow of a sickle from blunt or reverse side. However, statement of Akshay attributes fracture injury to Ajay Barde. In this background, it would be difficult to draw any inference at this stage, as to who is the author of fracture injury suffered by Akshay. The recovery of weapon is shown from Accused No.1 Shabir Shaikh. However, there are no blood stains. Although, prima facie, there is evidence against the applicant, their further detention is not necessary. They are behind bars since 22nd August, 2023. Learned APP confirms that there are no criminal antecedents against the applicants. However, keeping in mind the interest of the prosecution and possibility of tampering of evidence, some stringent conditions are required to be imposed while releasing the applicants on bail. Hence, the following order :-

: O R D E R :

- (I) The application is allowed.
- (ii) Applicants – Shabir Sharif Shaikh and Ayaz Javed Shaikh, be released on bail on furnishing P.B. and S.B. of Rs. 50,000/- each with one

surety each of the like amount, in Crime No. 76 of 2023, registered with Supa Police Station, Dist. Ahmednagar on the following conditions :-

- (a) The applicants shall not tamper with the prosecution evidence;
- (b) The applicant shall attend the trial on each and every effective date before the trial court;
- (f) The applicants shall not enter Parner Taluka, District Ahmednagar for the period of four months from the date of their release and update police station regarding their residential address and contact numbers.
- (iii) The application stands disposed of.

[S.G. CHAPALGAONKAR]
JUDGE

grt/-