

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

BAIL APPLICATION NO.2241 OF 2022
WITH APPLN/332/2023 IN BA/2241/2022

Atish @ Luccy Jaysing Kandhre @ Kandere,
Age 24 years, Occu. Education,
R/o. ITI Colony, Beed, Taluka and District Beed .. Applicant

Versus

1. The State of Maharashtra
Through P.I. Police Station,
Shivaji Nagar, Beed,
Taluka and District Beed
2. The Superintendent of Police
Beed, District Beed. .. Respondents

Mr. R. G. Hange, Advocate for Applicant
Mr. S. B. Narwade, A.P.P. for Respondents

WITH
CRIMINAL APPLICATION NO. 332 OF 2023
IN BAIL APPLICATION NO. 2241 OF 2022

Sumit s/o. Ganpatrao Kolpe,
Age 29 years, Occu. Education,
R/o. Canara Bank Colony, Beed,
Taluka and District Beed .. Applicant
(Original complainant)

Versus

1. Atish @ Luccy Jaysing Kandhre @ Kandere,
Age 26 years, Occu. Nill,
R/o. ITI Colony, Nagar Road, Beed,
Taluka and District Beed
2. The State of Maharashtra
Through Police Inspector,
Shivaji Nagar Police Station,
Beed, Taluka and District Beed .. Respondents

Mr. S.R. Sambare, Advocate for Applicant (original complainant)
Mr. R. G. Hange, Advocate for Respondent No.1
Mr. S. B. Narwade, A.G.P. for Respondent No.2/State

CORAM : S. G. MEHARE, J.

DATE : 14.02.2023

PER COURT :

1. Heard the learned counsel for the applicant, the learned A.P.P for the respondent State and learned counsel for the complainant.
2. The applicant is seeking bail in C.R.No.403 of 2020 registered with Shivajinagar Police Station, Taluka and District Beed, for the offences punishable under Sections 307, 323, 143, 147, 148, 149, 504 of the Indian Penal Code and Section 4/25 of Indian Arms Act.
3. It has been alleged against the applicant that he along with other co-accused assaulted the complainant-injured as he had affixed his photograph on the banner of the birthday of one Amol Bidkar. The applicant assaulted the injured with sickle on leg and caused him fracture.
4. After arrest, the applicant was released on temporary bail during the Covid-19 pandemic. He was to surrender on 15th February 2020. However, when he was on the temporary bail he committed an offence

of murder and was arrested on 15th January, 2021. On 19th December, 2022 he was granted bail for the offence of murder. The accused did not dispute that he surrendered 15 days late after the Covid-19 pandemic bail period was over.

5. It has been vehemently argued by the learned counsel for the applicant that similarly situated co-accused have been released on bail. The applicant has been falsely implicated in the crime. The applicant is languishing in jail since long. He deliberately did not breach the condition of temporary Covid-19 pandemic bail. The injury was simple. The weapon allegedly used in the crime has been seized. The applicant is a young boy of 24 years old. He has been implicated in the crime since there are rival groups in the village. The learned counsel for the applicant vehemently argued that considering the facts of the case, the applicant may be granted bail.

6. The learned A.P.P. and learned counsel for the complainant have vehemently argued that the conduct of the applicant is unsuitable for getting bail. When he was on Covid-19 pandemic bail, he committed murder. He did not *bona fide* surrender though he was knowing that the present application was pending for bail. During the pendency of this bail application he surrendered to jail as his Covid-19 pandemic

bail period was over. There are many serious body offences registered against the applicant. The role attributed to the co-accused Akash as far as this case is concerned is different. The conduct of the applicant is not good. Considering his past, he may commit the crime. Day by day he is involving in a serious crime.

7. The learned counsel for the applicant in reply has argued that the offence registered against the applicant is no ground to refuse bail. The injury suffered to the applicant was not on the vital part of the body. Therefore, the applicant deserves bail.

8. Perused the papers placed before the Court. It is not in dispute that the applicant did not surrender before Covid-19 pandemic bail period was over. He was arrested in the crime of murder. He was released on bail in that crime. When he was released on bail, it was not brought to the notice of the jailer that the period of temporary bail granted to him during Covid-19 pandemic has been over. However, the applicant surrendered on 17th January 2023 when this bail application was pending. The injured has suffered the fracture on tibia and distal Tibia fracture. It was a serious injury caused to the injured. Deadly weapon like sickle has been used. The conduct of the applicant is one of the grounds to be considered while dealing with the bail application.

The graph of the body offence of the applicant seems rising. His conduct was not *bona fide* and he did not surrender until the objection was raised by the prosecution during the hearing of this application. The past of the applicant appears not good. The role attributed to the other co-accused is different. Hence, he cannot claim parity.

9. For the above reasons, the application stands dismissed.
10. Criminal Application No.332 of 2023 stands disposed of.

(S. G. MEHARE)
JUDGE

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