



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

BAIL APPLICATION NO. 2211 OF 2023

**WITH
BA/2005/2023,
WITH
BA/2076/2023,
WITH
BA/2082/2023,
WITH
BA/2146/2023**

**ASIF SULEMAN KHAN
VERSUS
THE STATE OF MAHARASHTRA**

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Advocate for the applicant : Mr. Nitin Bhavar Patil (for LLP
Advocate and Legal Consultancy) (in BA/2211/2023)
Advocate for the applicant : Mr. Shaikh Mazahar A. Jahagirdar
(In BA/2005/2023 & 2146/2023)
Advocate for the applicant : Mr. S.S. Kulkarni (In
BA/2076/2023)
Advocate for the applicant : Mr. Sanket N. Suryawanshi (in
BA/2082/2023)
APP for the Respondents State : Mr. S.A. Gaikwad

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CORAM : S.G. CHAPALGAONKAR, J.

Date :- 13.12.2023.

PER COURT :

1. The applicants in respective bail applications are seeking regular bail in connection with Crime No. 641 of 2023 dated 09.10.2023 registered with Police Station, Ahmednagar

Camp, District Ahmednagar for the offences punishable under Sections 307, 364, 120-B, 143, 147, 148, 149 of the Indian Penal Code.

2. The investigation has been set in motion on the basis of information given by one Mahesh Ashok Gorade, who alleges that he is serving as Manager on Universal Petrol Pump at Mumbai. On 08.10.2023, since he had vacation he came to his home at Bhingar, District Ahmednagar. His father has catering business, where some ladies are employed. One Suhana Pathan and her mother were employed with his father therefore, the informant had acquaintance with her. It is further alleged that at about 7.00 p.m. while the informant was at Panchshil arch, a lady wearing a Burkha called him and asked the applicant how he is at that place. She reminded that she was employed with the father of the informant. While they were talking, accused Jafar Khan, son of Asad Medical shop owner and other 3 accused persons approached informant and asked him why he is speaking with a lady of their community and raised assault of fists and kick blows. Accused persons forcibly carried the informant on their two wheelers towards a Mosque. Accused Soheb Momin, Shoheb Momin and other two unknown persons

joined the accused who had carried him to a Mosque and all of them raised assault against the informant by fists and kick blows.

3. Thereafter, accused persons took the informant on their motorcycle to More vasti and raised further round of assault. At that place one of the accused hit informant on head and face by plastic pipes. At that time accused Altaf Sayed, Shakir Shaikh Almgir and other 3 to 4 unknown accused arrived and raised a round of assault on informant by fists and kick blows and forcibly carried him towards the Alamgir honorarium (Shaha Corner) and again raised an assault while demanding keys of honorarium. Thereafter, the informant was put in a white colour Scorpio jeep. Accused persons boarded in the jeep along with the informant. Accused persons were in the contact with one Mujju Shaikh and following his instructions and they were threatening the informant to kill. While the informant was being carried in the jeep the police intercepted at Supa and apprehended the accused persons. On the basis of aforesaid information in all 15 accused persons have been arrested including the applicants. The prayers of the applicants for grant of bail have been rejected by the Court of Sessions.

Hence this application.

4. The learned Advocate appearing for the applicants would submit that the applicants have been falsely implicated in the aforesaid crime. The allegations in the F.I.R. are vague and unspecific. A concocted story has been introduced to book the large number of accused persons. The offence under Section 307 would not attract in the present case. Admittedly the informant is assaulted by fists and kick blows. No weapons have been used. The applicants are behind the bar from 09.10.2023. The period of two months have been passed. The investigation in the matter is practically over. The further detention of the applicants would not be necessary.

5. The learned APP strongly opposed the prayer for grant of bail. He would submit that the incident has colour of religious hatred. An attack on the informant was motivated to disturb the fabric of the society. Most of the applicants are having criminal antecedents. He further submits that the first informant has suffered grievous injuries i.e. fractures on left and right ulna. A brutal attack was raised against a lonely victim. In case of release of the applicants, a possibility of

recurrence of similar incident cannot be ruled out.

6. Having considered the submissions advanced, it can be gathered that all 15 accused persons have been arrested in pursuance of the aforesaid crime. The accused Jafar Khan alleged to be an assailant. Accused Fajal Shaikh, Imran Shaikh, Arbaj Kazi, Asif Khan, Anis Pathan and Abdul Shaikh are apprehended while proceeding in a Scorpio jeep. Accused Abdul Raheman alleged to have assaulted the informant by plastic pipe. Unknown accused were subsequently identified as referred in supplementary statement of the informant.

7. A perusal of the medical certificate shows that the first informant had suffered contusion, abrasion, C.L.W. over right leg, blunt trauma on chest and abdomen and fracture on right and left ulna.

8. Although Section 307 of I.P.C. is invoked, accused persons have not used any weapon in commission of the offence. The informant was attacked by fists and kick blows and injuries are in the nature of trauma with fracture to both ulna. Accused persons are arrested immediately after the incident and they are behind the bar from 09.10.2023. The

period of two months has been lapsed from the date of their arrest.

9. Although some of the accused persons have been named applicants in the Bail Application No. 2005 of 2023, 2146 of 2023 and 2082 of 2023 are not named in the F.I.R. The identification parade has been conducted, however, the informant could not recognize them to be the assailants. It is difficult to draw an inference regarding the motive of the crime. The incident incepted owing to conversation of the first informant with a lady wearing in Burkha, however, prima-facie nature of dispute appears to be different. As rightly pointed out by the learned Advocates appearing for the applicants, informant used his mobile phone during the course of his abduction and contacted with his friend and the family members. The prosecution relies upon the statement of witness Suresh Jadhav, however, he states the names of the accused persons on the basis of hearsay information. Similarly the accused Abhijit and Deepak had no acquaintance with the accused persons. They have named of accused persons on the basis of hearsay information. Taking into account aforesaid circumstances and the fact that the investigation in the matter

is practically over, further detention of the applicants need not be continued, hence the case is made out for grant of bail subject to certain conditions. Hence the following order :

ORDER

- i. Bail Applications are hereby allowed.
- ii. The applicants – 1) Asif Suleman Khan, 2) Amjad Hamid Shaikh, 3) Vasim Shabbir Shaikh, 4) Shakir Abdul Gani Shaikh 5) Mujahid Rais Sayyed, 6) Asad Gaffar Shaikh 7) Tanveer Bashir Pathan be released on bail in connection with Crime No. 641 of 2023 registered with Ahmednagar Camp police station, District Ahmednagar, for the offences punishable under Sections 307, 364, 120-B, 143, 147, 148, 149 of the Indian Penal Code on their furnishing P.B. & S.B. of Rs.50,000/- (Rs. Fifty Thousand) each, with solvent sureties each for the like amounts on the following conditions :-
 - a] The applicants shall visit the concerned police station once in a week i.e. on every Monday in between 10.00 a.m. to 2.00 p.m. till filing of the charge-sheet.
 - b] The applicants shall not tamper the prosecution evidence in any manner or shall not establish contact with any of the witnesses acquainted with the facts of this case.
 - c] The applicants shall not indulged in any criminal activities.
 - d] In case of registration of any similar offence,

their bail shall be liable to be cancelled.

iii. Bail application is accordingly disposed off.

(S.G. CHAPALGAONKAR)
JUDGE

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