



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.**

CRIMINAL APPLICATION (BA) NO.856 OF 2024
(Shaikh Afzal Shaikh Bismilla and anr. Vs. State of Maharashtra)

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Ms A. Sharma, Advocate h/f Mr. P.R. Agrawal, Advocate for the
applicants.
Mrs. H.N. Prabhu, APP for the State.

CORAM:- URMILA JOSHI-PHALKE, J.
DATED :- OCTOBER 22, 2024.

By this application, the applicants are seeking
bail in connection with Crime No.372/2024 registered
with Police Station Akot, District Akola for the offence
punishable under Sections 118(2), 115(2), 352 and 3(5)
of the Bharatiya Nyana Sanhita, 2023.

2. The applicant No.1 is arrested on 10/08/2024
and applicant No.2 is arrested on 14/08/2024.

3. The crime is registered on the basis of report
lodged by Ifran Ahemad Mohd. Hanif on an allegation
that on 09/08/2024 at about 6.30 PM when he was
present in the house Shaikh Aslam Shaikh Bismilla i.e.
co-accused made him a phone call and called him outside
the house. At the relevant time he was assaulted by the
said Shaikh Aslam by means of knife blow as well as the
present applicants have assaulted him by fist and kick
blows. Due to the said assault, he sustained the injuries.

On the basis of said report, police have registered the crime against the present applicants.

4. Learned Counsel for the applicants submitted that as far as the role of the present applicants is concerned which is only to the extent of assault by fist and kick blows. The role of causing the injuries by knife is attributed to the other co-accused. Now, the investigation is practically completed though charge-sheet is not filed, further incarceration of the applicant is not required.

5. Learned APP strongly opposed the application and submitted that the act of all the accused in furtherance of their common intention, the injured has sustained the grievous injuries. In view of that, the application deserves to be rejected.

6. I have heard learned Counsel for both the parties. Perused the recitals of the FIR and the investigation papers from which it reveals that undisputedly the injured has sustained the grievous injuries but said injuries are not attributed to the present applicants but it is attributed to the co-accused. As far as the present applicants are concerned, the recitals of the FIR and the statements of the eye-witnesses as well as injured witness shows that knife blow is given by co-accused Shaikh Aslam Shaikh Bismilla. In view of that, the applicants have made out a case for grant of bail. Accordingly, I proceed to pass the following order:

- (i) The application is allowed.
- (ii) The applicants – 1) Shaikh Afzal Shaikh Bismilla and 2) Shaikh Taufik Shaikh Bismilla in connection with Crime No.372/2024 registered with Police Station Akot, District Akola for the offence punishable under Sections 118(2), 115(2), 352 and 3(5) of the Bharatiya Nyana Sanhita, 2023, be released on bail on executing PR. bond in the sum of Rs.25,000/- with one surety in the like amount.
- (iii) The applicant shall attend the concerned police station as and when required for the investigation purpose and shall cooperate with the investigating agency.
- (iv) The applicant shall not induce, threat or promise any witnesses in any manner who are acquainted with the facts of the case either personally or by way of electronic media.
- (v) The contravention of any of the condition would lead to the cancellation of bail.

7. The application is disposed of.

(URMILA JOSHI-PHALKE, J.)