

Anand

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

BAIL APPLICATION NO.1599 OF 2015

1. Parvez Dawood Ali Sheikh .Applicants
2. Jafar Vajir Sheikh

v/s.

The State of Maharashtra .Respondent

WITH

**CRIMINAL APPLICATION NO.836 OF 2015
(For Intervention)**

IN

BAIL APPLICATION NO.1599 OF 2015

Mohammed Shafique Abdul .Intervenor
Majid Shaikh

IN THE MATTER BETWEEN

1. Parvez Dawood Ali Sheikh .Applicants
3. Jafar Vajir Sheikh

v/s.

The State of Maharashtra .Respondent

Mr.M.A.H.Solkar, Advocate, for the Applicants
Mr.S.S.Pednekar, APP, for the Respondent – State
Mr.A.Naik i/b. Mr.R.P.Khobragade, Advocate,
for the Intervenor

CORAM : REVATI MOHITE DERE, J.

DATE : 12.10.2015

P.C.

. Heard learned counsel for the applicants and the learned APP for the respondent – State.

2. By this application, the applicants seek their enlargement on bail in connection with C.R.No.41 of 2015 registered with the Agripada Police Station, Mumbai, for the alleged offence punishable under Section 302 r/w.34 of the Indian Penal Code.

3. The complainant is one Mohammed Shafique Abdul Majid Shaikh. He has alleged that the incident took place on 21.02.2015 at about 9.00 p.m.. It is alleged in the complaint that he was informed by Taufique (deceased) that there was a meeting for settling the account between Taufique and Dawood. It is alleged that during the meeting, there was a small

altercation between the two groups. It is alleged that suddenly, co-accused Vajir caught hold of Taufique and pushed him, pursuant to which, he fell on the ground. It is alleged that at that time, the applicant No.2 - Jafar assaulted Taufique on his head with an iron stool, which was at the spot and the applicant No.1 - Parvez assaulted Taufique with fist blows. It is alleged that thereafter, Taufique ran towards Sagar Medical Stores and that the applicant No.2 - Jafar followed him and assaulted him with kick blow on his private part, pursuant to which he fell down. Thereafter, people intervened and took Taufique to the hospital when he was declared dead.

4. Learned counsel for the applicants states that the incident in question took place on the spur of moment, as is evident from the FIR itself. He submits that co-accused - Vajir

has been enlarged on bail by this Court (CORAM : SMT. SADHANA S. JADHAV, J.) vide order dated 03.08.2015. He submits that admittedly, no weapon was carried by any of the applicants and that the incident had taken place on the spur of moment. He submits that the injury sustained by the deceased was one contusion on his head which is reflected in column no.17 of the post mortem report.

5. Learned APP does not dispute the fact that the incident had taken place on the spur of moment. However, he states that the applicant No.2 – Jafar had caused the fatal blow. He states that the applicants have no antecedents.

6. Perused the charge-sheet as well as the order dated 03.08.2015 enlarging co-accused Vajir on bail. From column 17 of the post mortem report, it appears that the injury sustained by

the deceased was, 'contusion of size 3 x 2 cm over right side of forehead, above middle of right eyebrow. It was reddish in colour. It appears that the incident took place on the spur of moment. There is only one injury. It also appears from column 20(g) of the post mortem report that there was concentric block to the extent of 50-60% to the right coronary of the deceased.

7. Considering the aforesaid and the fact that investigation is complete and charge-sheet is filed, the applicants are enlarged on bail on the following terms & conditions:

ORDER

- (i) The applicants be enlarged on bail, on executing PR Bond in the sum of Rs.25,000/- each with one or two sureties in the like amount;
- (ii) The applicants shall attend the Agripada Police Station, Mumbai on the first

Saturday of every month between 10:00 a.m. to 11:00 a.m. till the conclusion of the trial;

(iii) The applicants shall not tamper or attempt to influence or contact the complainant, witnesses or any person concerned with the case;

(iv) The applicants shall inform their latest place of residence and mobile contact number immediately after being released and/or change of residence or mobile details, if any, from time to time to the Court seized of the matter and to the Investigating Officer of the concerned Police Station;

(v) The applicants to cooperate with the conduct of the trial;

(vi) If there is a breach of any of the aforesaid conditions, the prosecution shall be at liberty to seek cancellation of the applicants' bail.

8. The Application is allowed in the aforesaid terms and is accordingly disposed of.

9. In view of disposal of the Application, Intervention Application does not survive and the same stands disposed of accordingly.

10. It is made clear that the observations made herein are *prima facie*, and the trial Court shall decide the case on its own merits, in accordance with law, uninfluenced by the observations made in this order.

All concerned to act on the authenticated copy of this order.

(REVATI MOHITE DERE, J.)