

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO.1631 OF 2015

Abdul Fahim Abdul Mohin Khan and
Wahid Raza Mohammad Ismail Khan

..Applicants

-Versus-

State of Maharashtra

..Respondent

Mr. Manoj Arvind Naik for applicants
Ms. M.H.Mhatre, APP for State.

CORAM : A.S.GADKARI, J.
DATE : 9th December 2015.

P.C.

1] The applicants are seeking bail in C.R.No.49 of 2015 registered with Chunabhatti police station under section 302, 326, 506, 143, 147, 148, 149 and 34 IPC.

2] It is the case of the prosecution that due to the earlier enmity the applicants along with other four co-accused persons beat Imran @ Badshah by fists and kicks. One of the accused Fuzail gave blows with the aid of a wooden stick. Investigation in the present crime is completed and the charge sheet is now filed. Learned Counsel for the applicant submitted that the accused persons viz., Salman Bale Mansoori @ Salman Patera, Ahsan Ali Arshad Ali Khan and Abdul Karim Khan Jumman Ali have been released on bail by

the trial court.

3] Learned APP on the other hand submitted that as far as applicant No.1 Abdul is concerned, he is already involved in C.R.No.169 of 2013 under section 324, 323, 504, 506 read with 34 IPC. She further submitted that when on bail in the said C.R., the applicant has committed the present crime. She, therefore, submitted that though the principle of parity is applicable to the applicant No.1, taking into consideration the antecedents at his discredit, he is not entitled for bail because of the earlier case pending against him. I find substance in her submission.

4] In view of the above, the application filed by the applicant No.1 Abdul Fahim Khan is rejected. As far as applicant NO.2 Wahid is concerned, the principle of parity with the aforesaid co-accused is applicable to him and taking into consideration the said aspect, the applicant No.2 is entitled to be released on bail.

Hence the following order:-

- (I) The application of applicant No.1 Abdul Fahim Khan is rejected;
- (ii) The applicant No.2 Wahid Raza Mohammad Ismail Khan shall

be released on bail in the C.R.No.49 of 2015 registered with Chunabhatti Police station on his furnishing P.R. Bond of Rs.25,000/- with one or two solvent sureties in the like amount;

(iii) The applicant No.2 Wahid Raza Mohammad Ismail Khan shall report to I.O. Chunabhatti police station first Monday of every month during 10.00 a.m. and 12.00 noon during the pendency of trial;

(iv) The applicant No.2 Wahid Raza Mohammad Ismail Khan shall not tamper with and/or influence the prosecution witnesses;

(v) The application is partly allowed in the aforesaid terms;

(A.S.GADKARI, J)