

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

CRIMINAL APPLICATION NO. 5573 OF 2016

1. Shaikh Abdul Rahim Shaikh Sandu .. Applicants
Age. 40 years, Occ. Agri.,
R/o. Umravati, Tq. Phulambri,
Dist. Aurangabad.
2. Shaikh Ismail Shaikh Sandu
Age. 38 years, Occ. Agri.,
R/o. As above.
3. Sadik Sattar Patel
Age. 29 years, Occ. Agri.,
R/o. As above.
4. Aaref Sattar Patel
Age. 20 years, Occ. Agri.,
R/o. Shelgaon, Tq. Kannad,
Dist. Aurangabad.

Versus

The State of Maharashtra .. Respondent

Mr.Girish V. Wani, Advocate for applicants.
Mr.S.M. Ganachari, APP for respondent/State.

CORAM : A.M. BADAR,J.

DATED : 14.10.2016

P.C. :-

1. Applicants/accused in Crime No.I-94 of 2016 registered with Vadodbazar Police Station, Dist. Aurangabad, for the offence punishable under section 307,

506, 143, 147, 148, 149 of the Indian Penal Code, by this application are seeking their release on bail.

2. Heard learned Counsel appearing for applicants/accused. He argued that overtact is attributed to one applicant, named, Aaref Patel. All applicants are behind the bar for a period of two months. They may be bystanders at the place of incident in question and therefore they are entitled for bail.

3. Learned A.P.P. opposed the application by contending that there are four independent eye witnesses to the incident in question. The incident took place because a morphed photograph of Sana, who is daughter of one of the accused with Shahrukh, son of injured, was sent to various persons through mobile phone. Therefore, accused persons assaulted informant Shaikh Imran as well as his father Shaikh Ahmed by means of knife. Learned A.P.P., therefore, submits that the application is liable to be rejected.

4. Perused papers of investigation and considered the rival submissions. The F.I.R. itself shows that in all nine accused persons including present applicants went to the Tea Stall of the informant Shaikh Imran Shaikh Ahmed jointly and by questioning him, started

abusing him over the issue of joint photograph of Shahrukh and Sana. This, prima facie, depicts formation of an unlawful assembly with common object. The F.I.R. shows that the accused persons including the present applicants indulged in rioting and in that process Shaikh Isak Shaikh Karim assaulted Shaikh Ahmed Shaikh Vazir by means of knife; whereas applicant Aref Patel assaulted Shaikh Ahmed by means of knife. The informant Shaikh Imran disclosed that the accused persons assaulted him by means of knife as well as slaps and fist blows. Statements of witnesses are corroborating the version of the informant.

5. Perusal of injury certificate shows that Shaikh Ahmed had suffered one stab injury and another incised wound on left side of chest and right shoulder respectively. Shaikh Irman Shaikh Ahmed - the informant had suffered incised wound on left infra scapular region. It is seen that all these injuries were simple in nature. Papers of investigation do not show that injured persons are still hospitalized.

6. As injuries to victims of the crime are simple in nature and as major part of the investigation is already over, further pre-trial detention of the present applicants is not warranted. As such, following order :-

O R D E R

- i) The application is allowed.
- ii) Applicants/accused - Shaikh Abdul Rahim Shaikh Sandu, Shaikh Ismail Shaikh Sandu, Sadik Sattar Patel & Aaref Sattar Patel, in Crime No.I-94 of 2016, registered with Vadodbazar Police Station, Dist. Aurangabad, for the offences punishable under sections 307, 506, 143, 147, 148, 149 of the Indian Penal Code, be released on bail on executing P.R.Bond of Rs. 25,000/- [Rupees Twenty Five Thousand] and on furnishing surety in the like amount, by each of them.
- iii) As a condition of this Order, applicants shall not extend any threat, inducement or promise to the persons acquainted with the facts of the accusation so as to dissuade them from disclosing the same either to the police or the Court.
- iv) Applicants shall not tamper the evidence of the prosecution.

[A.M. BADAR, J.]