

FARAD CONTINUATION SHEET No.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO. 688 OF 2015

Yusuf Umer Shaikh.

...Applicant.

vs.

The State of Maharashtra.

...Respondent.

WITH

BAIL APPLICATION NO.124 OF 2015

Abdul Sharik Abdul Jabbar Khan.

...Applicant.

vs.

The State of Maharashtra.

...Respondent.

Ms. Swapna Kode for the Applicant in BANO.688/2015.

Mr. Prakash Shetty for the Applicant in BA No.124/2015

Mr. P.P. Shinde, APP. for the State.

CORAM : A.S.GADKARI, J.

DATE : 23rd February, 2016

P.C.

The applicants are seeking bail in CR No.57/2014 dated 23.3.2014 registered with Wadala Police Station, Mumbai under Sections-302,143,147,148,149,341,342 and 323 of the Indian Penal Code. The applicant Yusuf Umar Shaikh is Accused No.2 and the Applicant Abdul Sharik Abdul Jabbar Khan is Accused No.4 as per the final report submitted by the police. The first information report is lodged by Mr. Babar Sherkhan Pathan on 23.3.2014. It is stated in the said report that on 23.3.2014 at about 11.30 p.m. near Dobar Baba Dargah the applicants along with other accused persons assaulted the deceased Imran Gulam Nabi Pathan due to the earlier enmity. It is the further prosecution case that co accused namely Hamid(Accused No.5) and Salim Jamadar

(Accused No.1) assaulted the deceased with knife. The deceased sustained stab injuries. It is the further prosecution case that the applicant Yusuf instigated the other accused persons to assault the deceased. That, the applicant Abdul Sharik assaulted the deceased with kicks. After completion of investigation the police have filed the charge sheet.

2) I have perused the entire charge sheet annexed to the present application. The record discloses that the eye witnesses namely Shri. Mangesh Salve, Police Sub Inspector, Juned Amir Malim and Munawar Khushal Shaikh have stated that the applicant Yusuf Shaikh was instigating other accused persons to commit assault on the deceased and was also shouting that, did not leave him alive. The said statements are recorded on 23/3/2014 and 24/3/2014. As far as applicant-Abdul Sharik is concerned, it is stated in the said statement that two unknown persons also participated in the said assault. It further appears that supplementary statements of witnesses Juned Malim and Munawar Khushal were recorded by the police on 24.4.2014 wherein the said witnesses have attributed the role to the applicant Abdul Sharik as he was giving kick blows to the deceased. It is to be noted here that the applicant Abdul Sharik was arrested on 22.4.2014 and the supplementary statements implicating him were recorded on 24.4.2014. It further appears from the record that apart from the role attributed and stated herein above of the present applicants no overt act is attributed to them. In view of the same, the applicants have made out a case for their release on bail.

Hence, the following order.

ORDER

a) The applicants namely Yusuf Umer Shaikh and Abdul Sharik Abdul Jabbar Khan be released on bail in CR No.57/2014 registered with Wadala Police Station on their furnishing PR bond of Rs.50,000/-each with one or two solvent local sureties in the like amount.

- b) After their release from Jail, the applicants namely Yusuf Umer Shaikh and Abdul Sharik Abdul Jabbar Khan shall attend the Wadala Police Station, Mumbai on every 1st Monday of the month between 11.00 a.m. to 1.00 p.m. till the conclusion of the trial.
- c) After their release from Jail, the applicant namely Yusuf Umer Shaikh and Abdul Sharik Abdul Jabbar Khan shall furnish their proof of residential address and their mobile numbers, if any, to the Wadala Police Station, Mumbai and also to the Trial Court.
- d) The applicants namely Yusuf Umer Shaikh and Abdul Sharik Abdul Jabbar Khan shall attend all the dates before the Trial Court.
- e) The applicant shall not tamper with the evidence and or influence the prosecution witnesses.
- f) Application is allowed in the aforesaid terms.

(A.S. GADKARI, J.)