

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

CRIMINAL BAIL APPLICATION NO. 2335 OF 2015

Sadique Yasin Pathan & Ors. ..Applicants

v/s.

The State of Maharashtra. ..Respondents

Mr. Mateen A. R. Shaikh for the Applicant

Mr. S.H.Yadav, APP for the Respondent-State.

Mr. Vijay Wagh, police constable from Jay Kheda Police Station,
Nashik Rural, present.

CORAM : SMT. ANUJA PRABHUDESSAI, J.

DATED : JANUARY 21, 2016.

P.C.

1. This is an application for bail filed by the applicant who has been arrested in Crime No.I-115 of 2015 registered with Jaykheda Police Station for offences punishable under Section 307, 143, 147, 148, 149, 323, 504 and 506 of the Indian Penal Code.

2. The case of the prosecution in brief is that on 21.8.2015 at about 14.00 hours, near Maharashtra Khanaval, Nampur Village, the applicant along with others had formed an unlawful assembly, armed with deadly weapons, and that they inflicted injuries on Ramdas

Sale, and thereby attempted to cause his death.

3. The aforesaid crime was registered pursuant to the FIR lodged by one Dadaji Sale. The applicants were arrested and upon completion of investigation, chargesheet has been filed before the JMFC, Satana. The applicant herein had filed application for bail before the learned Sessions Judge, Malegaon. The said application has been dismissed by Addl. Sessions Judge, Malegaon, by order dated 28.10.2015. Hence the present application.

4. Mr. Shaikh, the learned counsel for the applicant has submitted that the FIR as well as the statement of other witnesses prima facie indicates that the applicant had only inflicted injury by means of fist blows and kicks. He has submitted that the applicant had no intention of causing death of the injured and that they were not involved in commission of the offence as alleged. He has submitted that the applicants are in custody since August 2015 and that the investigation is completed and their presence is no longer required in custody.

5. The learned APP has submitted that the applicants were members of an unlawful assembly and that they had participated in

inflicting injury on Ramdas. He has further submitted that the injury certificate reveals that the injured had sustained grievous injuries. He has submitted that considering the nature of the offence, the applicant is not entitled for bail. He has further submitted that the applicants Shadab and Yunus have criminal antecedents and that they are not entitled for bail.

6. I have perused the record and considered the submissions advanced by the learned Counsel for the applicant and the learned APP for the State. The records prima facie reveal that on 20.8.2015 the injured and his cousin had meals had Maharashtra Khanaval. There was an altercation between the injured and the owner of the said hotel over payment of bill, and that the said altercation led to the incident of assault by the aforesaid applicant and the other accused. The statement of the injured prima facie reveals that these applicants were involved in assaulting him with sticks and blow. The record indicates that these applicants had not inflicted any grievous injury on any vital part of the body. It is true that the medical certificate does show that the applicant had sustained grievous head injury on the frontal region and blunt injuries on chest and abdomen.

The statement of the injured however reveals that the said head injury was inflicted by one Isac Babu Shah, and whereas Rais Babu Shah had assaulted him on chest, back and stomach by means of iron rod. There is no prima facie material on record to indicate that the applicant herein had inflicted the injuries mentioned in the medical certificate.

7. The applicants are in custody since August 2015. The investigation is already completed. Chargesheet is filed. The nature of the allegations leveled against the applicants do not justify further detention in custody. In view of the above, the applicants are ordered to be released on bail on the following terms and conditions:-

- i) The applicants Sadique Yashin Pathan, Shahdab Lukman Shah and Yunus Nizam Shah, arrested in Crime No.I-115 of 2015 of Jaykheda police station, the applicant be released on bail on furnishing bail bond of Rs.25,000/- (Rupees Twenty-five Thousand Only) each with one solvent surety in the like amount to the satisfaction of the learned Sessions Court, Malegaon, Nashik.
- ii) The applicants shall not interfere with the complainant or other

witnesses in any manner.

iii) The applicants shall not leave Nashik District till committal of the case, without prior permission of the Sessions Judge, Malegaon, Nashik.

(ANUJA PRABHUDESSAI, J.)