

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

BAIL APPLICATION NO.1992 OF 2017

Anis Sikandar Shaikh & Anr. **... Applicants**

V/s.

The State of Maharashtra **... Respondent**

Mr. P. G. Sarda for the Applicants.

Ms. A. A. Takalkar, APP for the Respondent/State.

CORAM : A.S.GADKARI, J.

DATE : 25th SEPTEMBER, 2017

P.C.:

. This is an application under Section 439 of Cr.P.C. for bail in C.R. No. 677 of 2016 dated 28.08.2016 registered with Yerwada Police Station, District Pune under Sections 302, 143, 144, 147, 148, 149, 323, 504, 506(1) of the Indian Penal Code and Sections 37(1) and 135 of Bombay Police Act on the ground of parity with Accused No.6 Mudassar Shabbir Pirjade.

2 The Applicants are Accused Nos. 4 and 5. It is the prosecution case that on 27.08.2016 at about 8.15 p.m., there was a quarrel between the Complainant – Faim Ansari (younger brother of the deceased) and Saddam Sayyed (Accused No.1). In the said quarrel, Kalim Ansari(deceased) intervened, after which the Accused No.1 Saddam and his father (Accused No.2) abused and assaulted them. Accordingly, Kalim lodged an NC as against Saddam and Nabi (Original Accused

Nos.1 & 2). On the very same day, at about 11.00 p.m., the Accused Nos.1 &2 along with other Accused came to the spot and assaulted the Complainant and Kalim(deceased). It is alleged that the Accused No.1 – Saddam was holding a stick in his hand and that he assaulted (deceased) Kalim and that the other Accused persons also assaulted the Complainant and Kalim with fist and kick blows. During treatment, Kalim expired. The allegation as against the Applicants is, that they assaulted the Complainant and his brother with fist and kick blows. A perusal of the Postmortem report, in particular Column No.17 shows, that Kalim had received two abrasions i. e. one abrasion over left side of chest and one abrasion over left leg. As the cause of death could not be opined, viscera was preserved for chemical analysis. The histopathological examination report shows final cause of death as under :-

“subarachnoid haemorrhage with alcohol consumption”.

Investigation is complete and charge-sheet is filed.

3 Learned Counsel for the Applicants submitted that the co-accused No.6 Mudassar Shabbir Pirjade has been directed to be released on bail by this Court by an Order dated 26.07.2017 and the Applicants also have been attributed with same and/or similar role in the present crime. He therefore, submitted that the Applicants are entitled to be released on bail on the ground of parity. Learned APP after perusing the record fairly considered to the said fact.

5 Perused the record. It appears that the Applicants have played the same

and similar role of assault with kick and fist blows along with accused No.6. In view thereof, the principle of parity is squarely applicable to the present Applicants with Accused No.6 Mudassar Shabbir Pirjade and Applicants are entitled to be released on bail on the said ground,

6 Hence, the following order:-

(i) The Applicants be enlarged on bail, on executing PR Bond in the sum of Rs.20,000/- each with one or two separate local sureties in the like amount;

(ii) The Applicants shall report to the investigating officer of the concerned police station on the 1st Monday of every month between 10.00 a.m. to 11.30 a.m. for a period of one year from the date of their release;

(iii) The Applicants shall not tamper with the evidence 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) Application is allowed in the aforesaid terms.

(A.S.GADKARI, J.)