

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CRIMINAL APPELLATE JURISDICTION  
BAIL APPLICATION NO. 2034 OF 2017**

Furkan @ Mulla Munaf Divte ... Applicant.

Versus

The State of Maharashtra ... Respondent

Ms.Anjali Patil a/w A. Rajput for the applicant.

Mrs.J.S.Lohokare, APP for the State.

Investigating Officer, Mr.P.I.Bhat/SB-I, CID

**WITH  
BAIL APPLICATION NO. 2113 OF 2017**

Arif Fakhruddin Shaikh ... Applicant.

Versus

The State of Maharashtra ... Respondent

Mr. Dev Asis Mitra i/b fox Mandal Partner for applicant.

Mr.Makarand G.Patil,APP for the State.

Investigating Officer, Mr.P.I.Bhat/SB-I, CID

**CORAM: A.M.BADAR, J.**

**DATE: 4<sup>th</sup> October, 2017**

**PC:-**

1. By these applications, the applicant Furkan @ Mulla accused No.4 and applicant Asif Shaikh accused No.9 in crime No.315 of 2016 registered with police station Shivaji Nagar for the offence punishable under Section 307, 395, 397, 427 r/w 34 of the Indian Penal Code and under Section 4 and 25 of the Arms Act at the instance of Sadik Nabilal Sayyed are praying for their release on bail.

2. Heard the learned advocates appearing for both the applicants. It is argued on behalf of the applicants that accused No.1 Sameer Sayyed and Accused No.3 Akbar Ali @ Chunna Shaikh, who have played major role in the crime in question are already released on bail by this Court vide order dated 19.07.2017 in Criminal Bail Application No.785 of 2013. Therefore, on the principle of party both these

applicants are entitled for bail. It is pointed out that applicant Furkan @ Mulla is attributed role of assaulting Rizwana by means of hockey stick. But her medical certificate is not produced with the chargesheet by the investigator. Except this, nothing is attributed to her in the chargesheet. So far as the applicant Arif Shaikh is concerned, it is argued that three witnesses have named him. Out of them Noorjaha and Naimunnisa have stated that he was holding sword, whereas Salimunnisa has stated that he was holding rod. It is pointed out that First Information Report reflects the incident in question took place on 2.30 p.m. on 7.08.2016, whereas these three witnesses have stated about the incident which allegedly took place on 5.30 pm of 7.8.2016 and that too at some other place.

3. I also heard learned APPs appearing in both these matters. It is argued that recoveries are effected from both these applicants and therefore, they are not entitled for bail. Undisputedly, accused No.1 and 3 played major role in the

crime in question are released on bail by this Court. So far as accused No.1 Sammer is concerned, allegation against him are in respect of causing injuries to prosecution witnesses by means of sword. It is alleged that accused No.3 Akbarali had assaulted the first informant by means of Bambu stick. So far as the applicant Furkan @ Mulla is concerned, though, it is alleged that he assaulted Rizwana by means of a hockey stick, the chargesheet does not containing injury certificate of Rizwana. Witnesses who have deposed about applicant Arif Shaikh are stating about some other incident which allegedly took place subsequently. In the light of foregoing discussion, as prime accused involved in the crime in question are already released on bail by this Court, I see no reason to deny parity to present applicants. Even otherwise, investigation of crime in question is over and the chargesheet is already been filed against the accused persons. As such, the following order.

**ORDER**

- (i) Both these applications are allowed.
- (ii) The applicants are directed to be released on bail on executing P.R.Bond of Rs.25,000/- each with one or more sureties in the like amount.
- (iii) Applicants are directed to stay away from Indira Nagar Hutmant area.
- (iv) The applicants are directed to report to Shivaji Nagar Police Station, Mumbai once in a month on the first Saturday of every month between 11.00 a.m. to 1.00 p.m. till completion of trial.
- (v) The applicants should not tamper with evidence.
- (vi) The application stands disposed of.

**(A.M. BADAR, J )**