

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

BAIL APPLICATION NO.2619 OF 2017

Mr. Sudesh Sambhaji Rao Applicant

Vs.

The State of Maharashtra Respondent

**ALONGWITH
BAIL APPLICATION NO.2629 OF 2017**

Mr. Rupesh alias Papa Narsing Applicant
Makurwar

Vs.

The State of Maharashtra Respondent

Mr. Yuvraj P. Narvankar for the Applicants.
Mr. S.R. Agarkar, APP for the State.
Mr. S.G. Patil, PSI, Sangvi police station, Pune City.

***Coram : Smt. Sadhana S. Jadhav, J.
Date : 28th June, 2018***

P.C.:

1 Heard the learned counsel for the applicants and the
learned APP.

2 These are the applications under Section 439 Code of Criminal Procedure. The applicants herein are arrested on 27th June 2015 in Crime No.190 of 2015, registered at Sangvi Police Station, Pune, for the offences punishable under Sections 143, 147, 148, 149 and 302 of Indian Penal Code.

3 It is the case of the prosecution that on 26th June 2015, Firoz Inaytullah Shaikh lodged a report at the police station alleging therein that on that day, his father who is dealing in plotting and other land dealings had been to Shalimar Saloon of one Amin Shaikh. The first informant had received a telephonic call from the owner of saloon informing him that his father has been attacked by two persons. He rushed to the spot and found his father in a pool of blood. He had taken his father to the Hospital. On 27th June, 2015, by then, his father had succumbed to the injuries.

4 According to the first informant, his father had purchased 3 gunthas land bearing survey No.85/2A/1 from one Dhadphale.

Thereafter the said plot of land was sold to some other person through Shabbir Shaikh and therefore there was a dispute between them. In the year 2014, Abdul Shaikh had threatened his father of dire consequences and therefore Shabbir Shaikh and his five sons had grudge against his father and that they had attacked.

5 In the present case, Issak Amin Shaikh is an eye witness. He has disclosed on 26th June 2015, that he was aware that there is a dispute between Inaytullah and the son of Shabbir Shaikh and that criminal case has been filed at Bhosari police station. According to him on 26th June 2015, Inaytullah had been to his Saloon. At about 10.30 pm., five persons had entered his saloon and mounted assault upon Inaytullah. One of them closed the shutter of saloon. He has candidly stated that Tausif s/o Shabbir Shaikh had assaulted Inaytullah with sickle on his head. Tausif Shaikh had pushed him in an ante room and thereafter Shoeb Shaikh had assaulted Inaytullah. It is also alleged that four other persons, who were accompanying Tausif Shaikh and Shoeb Shaikh had also assaulted Inaytullah.

6 That the co-accused Umesh alias Anna Umesh Bansode has been enlarged on bail by this Court (Coram : Mrs. Mrudula Bhatkar, J.) vide order dated 24th January 2017. That the role attributed to Umesh Bansode was that he had purchased four sickles from one Dinkar Salunkhe. This Court had considered that the eye witness Issak has specifically named Tausif and Shoeb Shaikh and thereafter in the concluding paragraph, the present applicants as well as Umesh Bansode has been named. No overtact is attributed to the present applicants by the eye witness.

7 Learned APP has submitted that the post mortem notes indicate that there were multiple injuries on the person, which cannot be caused by two persons and that the other accused had participated in the said offence. However, the said witness has not named the present applicants and that they were shown to the eye witness at the police station.

8 The investigating agency had not conducted the test identification parade. However, the accused were shown by the

police to the witnesses and therefore the identification parade would not have any significance. The co-accused Tausif and Shoeb shall not claim parity with the present applicants. The role attributed to the present applicants is the same that is attributed to Umesh Bansode and hence, the applicants deserve to be enlarged on bail.

9 The observations are restricted to the application under Section 439 of Cr.P.C. and shall not be taken into consideration for the purpose of discharge application or at the time of trial. Hence, the order :

ORDER

- i) The applications are allowed.
- ii) The applicants be enlarged on bail on furnishing P.R. bonds in the sum of Rs.50,000/- each with one or more solvent sureties in the like amount.
- iii) The applicants, within four weeks from the date of release, shall furnish their residential address, cell-phone and other details to the investigating officer.

iv) The applicants shall also give an undertaking to the Sessions Judge, seized with Sessions Case No. 674 of 2015, pending before the Sessions Court, at Pune that they would attend each and every date at the time of trial.

v) Upon failure to attend any two consecutive dates, the prosecution would be at liberty to file an application under Section 439(2) of Cr.P.C.

(*Smt. Sadhana S. Jadhav, J*)