

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

BAIL APPLICATION NO. 2069 OF 2021

Mohammed Nazir Shaikh ..Applicant

v/s.

The State of Maharashtra . ..Respondents

**WITH
INTERIM APPLICATION NO. 1889 OF 2021
IN
BAIL APPLICATION NO. 2069 OF 2021**

Ashfaq Ahmed Faiyaz Ansari ..Applicant

In the matter between
Mohammed Nazir Shaikh ..Applicant

v/s.

The State of Maharashtra . ..Respondents

**WITH
BAIL APPLICATION NO.4067 OF 2021**

Firoz Jumma Khan ..Applicant

v/s.

The State of Maharashtra . ..Respondents

**WITH
INTERIM APPLICATION NO. 5 OF 2022
IN
BAIL APPLICATION NO. 4067 OF 2021**

Ashfaq Ahmed Faiyaz Ansari ..Applicant

In the matter between
Firoz Jumma Khan ..Applicant

v/s.

The State of Maharashtra . ..Respondents

Mr. Mohsin Shaikh a/w. Tausif Khan for the Applicant in BA/2069/2021.
Mr. Aniket Vagal a/w. Kunal Pednekar for the Applicant in BA/4067/21.
Mr. Pranit Pawar a/w. Tushar Rane for the Intervenor in both matters.
Mrs. S.S.Kaushik, APP for the State.

CORAM : ANUJA PRABHUDESSAI,J.
DATED : 29th APRIL, 2022.

P.C.

1. These applications under Section 439 Cr.P.C. are filed by the aforesaid Applicants (Mohd Nazir Shaikh-Accused No.4 and Firoz Jumma Khan- Accused No.8) who are facing trial in Sessions Case No. 374 of 2021 pending on the file of the Sessions Court, Dindoshi Divison, Borivali, Mumbai for offences under Section 302, 307, 324, 392, 393, 141, 142, 143, 144, 147, 148, 149, 504, 506(2) r/w. 34 of Indian Penal Code.

2. The aforesaid crime was registered pursuant to the FIR dated 9.6.2020 lodged by Farukh Shaikh. A perusal of the FIR prima facie reveals that there was an altercation between the Complainant and one Tayyab @ Sheru- Accused No.1 over parking of rickshaws. The Complainant has stated that said Sheru had abused him and demanded money for parking auto-rickshaws within his area. Said Sheru also assaulted the Complainant and his friend Avesh. It is stated that the

Complainant phoned one Sajid and told him that said Sheru was demanding money. Sajid came to the place of incident and questioned Sheru about the incident, whereupon Sheru, his brother Ballu and Ajju @ Ballu assaulted Sajid.

3. The Complainant, Sheru as well as Sajid went to the police station, and some members of 313 Sajid Foundation also went to the police station. They agreed to resolve the dispute amicably without lodging complaints against each other. Accordingly, they met near Masjid. However, in the course of the settlement talks, Sheru abused the Complainant. It is stated that the Applicant Mohd Nazir Shaikh who was also present at the place of the incident provoked others by saying 'Sajid ko pakdo', whereupon the Applicant Firoz and one Ballu, co-accused Sayyed, and Sheru inflicted blows of knife on Sajid. It is further stated that the Applicant Mohd. Nazir also instigated Sheru by telling him to assault Sajid, whereupon Sheru gave several blows of knife on the chest of Sajid.

3. The records do not prima facie indicate that the Applicant Mohd., Nazir (Accused No.4) or the Applicant Firoz (Accused No.8) had inflicted any injury on Sayyed. On the contrary, the material on record reveals that Firoz himself had sustained grievous head injury and that Crime No.562 of 2021 is also registered against the Complainant herein

and others for assaulting other persons.

4. The material on record indicates that it was case of free fight between two groups. As noted above, the material on record does not indicate that the Applicant was involved in inflicting any injury to the deceased. No weapon has been recovered from these two Applicants. There are no criminal antecedents against the Applicants. Hence, considering the role attributed to these Applicants, and considering the fact that the charge is not yet framed, and the trial is not likely to be concluded within a reasonable time, in my considered view the Applicants are entitled for bail. Hence the Applicants are allowed on the following terms and conditions:-

- (i) The Applicants be released on cash bail in the sum of Rs.40,000/- (Rupees Forty Thousand Only) each for a period of four weeks;
- (ii) The Applicants shall within the said period of four weeks furnish P.R.Bond in the sum of Rs.40,000/- (Rupees Forty Thousand Only) each with one or two solvent sureties in the like amount, to the satisfaction of the Sessions Judge;
- (iii) The Applicants shall report to the Investigating Officer, Malvani Police Station once in two months, on the first Monday of the month from 11.00 a.m. to 2.00 p.m., until further orders;
- (iv) The Applicants shall provide their permanent as well as temporary address, if any, and contact details to the Investigating Officer.

(iv) The Applicants shall not change their residential address without prior intimation to the Investigation Officer.

(v) The Applicants shall not interfere with the complainant or any other witnesses, and shall not tamper with the evidence in any manner.

. Bail Applications stand disposed of.

. Civil Applications stand disposed in view of disposal of the Bail Applications.

(ANUJA PRABHUDESSAI, J.)

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