

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO. 1032 OF 2023**

Abdul Rehman Yusuf Shaikh	.. Applicant
Versus	
State of Maharashtra	.. Respondent
...	

Mr. Gaurav Bhawnani a/w Zeeshan Khan i/b Khan Abdul Wahab for the applicant.

Mr.S.R. Agarkar, APP for the State.

Mr. R.K. Nare, PSI, Wagle Estate Police Station, Thane.

CORAM: BHARATI DANGRE, J.

DATED : 30th OCTOBER, 2023

P.C:-

1 The application seeking bail is filed for the second time; the first being withdrawn when the Court was not inclined to consider the same on merits. On perusal of the material in the charge-sheet. The second application is now premised on the claim of parity.

The learned counsel for the applicant would rely upon the two orders passed by Justice M.S. Karnik on 21/09/2023 and 10/10/2023 in case of co-accused Aman Salim Shaikh and Atik Ahmad Khan.

2 On hearing the counsel for the applicant, it can be clearly discerned that the role attributed to the present applicant on the basis of the CCTV footage, was of holding the deceased by his collar, though he was not seen assaulting the deceased.

However, considering that his involvement would be considered on invocation of Section 149 of IPC along with Section 34, I did not considered it appropriate to release him on bail.

In the order passed in case of the main accused Atik, an observation, though, *prima facie*, is made that the entire act was a result of sudden and grave provocation as the deceased was found running away with his minor daughter, aged six, and therefore, the crowd chased him and assaulted him, by whatever weapon they had and also with fist and kick blows. The entire incident is captured in the CCTV footage where Atik was seen having stick in his hand. Similarly, Aman, the co-accused is also released on bail as he was the member of the crowd, which chased the deceased and he had caught hold of the deceased.

Another factor which weighed with the learned Judge was the long incarceration of the co-accused, since last two years with the trial not being in foresight.

3 There is no reason why the aforesaid reasoning shall not be made applicable to the present applicant, whose role has clearly surfaced in the CCTV footage, though he may take the consequences of his action since he faces the charge under Section 302, a/w Section 142, 143, 145, 149 of the IPC.

Hence the following order:

: ORDER :

- (a) Application is allowed.
- (b) Applicant - Abdul Rehman Yusuf Shaikh shall be released on bail in connection with C.R.No.146/2021 registered with Wagle Estate Police Station on furnishing

P.R. Bond to the extent of Rs.25,000/- with one or more sureties in the like amount.

(c) The applicant shall mark his attendance to the concerned Police Station once in alternate month on first Monday, between 04:00 p.m. and 5:00 p.m.

(d) The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade them from disclosing the facts to Court and shall not tamper with prosecution evidence.

(e) On being released on bail, the applicant shall furnish his contact number and residential address to the Investigating Officer and shall keep him updated, in case there is any change.

(f) The applicant shall also attend the trial on regular basis, once it commences.

(SMT. BHARATI DANGRE, J.)