

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY.
BENCH AT AURANGABAD.
Criminal Appellate Jurisdiction.**

CRIMINAL APPLICATION NO 1851 OF 2015.

SHAIKH SADIK S/O NOOR MOHAMMAD.
VERSUS
THE STATE OF MAHARASHTRA.

Appearance =>

Mr. S.A. Gaikwad, Advocate for the Applicant.

Mr. V.H. Dighe, Additional Public Prosecutor for the State of Maharashtra.

CORAM : V.M. Deshpande, J.

DATE : 11th June, 2015.

Per Court :-

In view of the order earlier passed by this court, Devidas Kashinath Shelke, Police Inspector, Azhadnagar Police Station, Dhule, District – Dhule has tendered his affidavit. In the affidavit, he has tendered his unconditional apology for giving incorrect information to his counterpart at Aurangabad.

He has tendered his unconditional apology and reasons for the mistake that has occurred, in that view court accepts unconditional apology of Devidas Shelke, Police Inspector, Dhule.

[2] Present Criminal Application is filed by the applicant for grant of regular bail in connection with CR No. I 3/2014 (Sessions Case No.33/2015) registered with Police Station, Daulatabad, District - Aurangabad for the offences punishable under Section/s 399, 402 of the Indian Penal Code and under Section 4 & 24 of the Arms Act.

[3] Heard Mr. Gaikwad, learned counsel for the Applicant and Mr. V.H. Dighe, learned Additional Public Prosecutor for the State, in extenso.

Both the learned counsel have advanced their argument in detail in respect of their respective prayers.

[4] The First Information Report is lodged with Police Station, Daulatabad by Police Constable - Santosh Ashokrao Suryawanshi. Since said First Information Report was disclosing commission of cognizable offence, CR No. I 3/2014 was registered with Police Station, Daulatabad for the offences punishable under Section/s 399, 402 of the Indian Penal Code and under Section 4 & 24 of the Arms Act. The First Information Report was registered against Mohammad Irfan Khan Chaudhari s/o Mehboob Khan Chaudhari and Javedkhan s/o Fakir Mohammad, who were apprehended at the spot itself. The allegations against the present applicant is that he is the the person, who ran away from the spot.

[5] The application of the applicant is contested mainly on the ground of his criminal antecedents. Initially, affidavit filed by the Investigating Officer pointing out that, there are 34 offences pending

against the present applicant, however, after scrutiny, it has been noticed that the Investigating Officer has filed incorrect affidavit in respect of number of offences pending against the present applicant and he has filed such affidavit based on incorrect information, which he has received from the Police Station, Dhule. In fact, out of 34 offences, in 29 offences, the applicant has already been acquitted. It is pointed out to this court by the present applicant, which is not disputed at all by the learned Additional Public Prosecutor for the State. Further it is not disputed by the learned Additional Public Prosecutor that other accused persons including the accused who were arrested on the spot itself are already released on bail by the competent court.

[6] In the present case, no test identification parade was held. The only incriminating material that is used against the present applicant is that the persons, who are already released on bail by the competent court, in their possession, election card of present applicant was found. On such feeble material, personal liberty of the applicant cannot be curtailed. Further, the charge sheet is already filed. Charge is not framed. In that view of the matter, indiscriminate incarceration of the applicant in jail, is not warranted. Hence, I pass the following order :-

ORDER.

- (i) Criminal Application is allowed.
- (ii) Applicant - SHAIKH SADIK S/O NOOR MOHAMMAD shall be released on regular bail on he executing P.R. Bond of Rs. 75,000/- [Rs. Seventy Five

Thousand.] with one solvent surety in the like amount, in connection with CR No.I 3/2014 (Sessions Case No.33/2015) registered with Police Station, Daulatabad, District - Aurangabad for the offences punishable under Section/s 399, 402 of the Indian Penal Code and under Section 4 & 24 of the Arms Act.

(iii) The applicant shall attend Police Station, Daulatabad once in a week, preferably on every Sunday, between 10.00 a.m. to 2.00 p.m., till trial is over. The applicant shall attend the Police Station, Daulatabad, scrupulously. The applicant shall maintain a diary, showing his attendance.

(iv) The applicant also shall give his mobile number to the Investigating Officer and also furnish his address of residence to the Investigating Officer.

(v) Any two consecutive absence from the Police Station as directed above, shall give cause to the Investigating Officer to file application for cancellation of bail.

(vi) In view of the above, Criminal Application is allowed and same is disposed of accordingly.

(V.M. DESHPANDE, J.)