

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

Criminal Application [BA] No.137 of 2015

(Resha @ Rekha Bhaurao pawar and others

vs.

The State of Maharashtra, through P.S.O. Jalalkheda)

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Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

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Court's or Judge's Orders

CORAM : PRASANNA B. VARALE, J.

DATE : APRIL 9, 2015.

After arguing for some time, the learned Counsel Mr. A.C. Jaltare prays for withdrawal of the application in respect of applicant no.1-Resha @ Rekha Pawar and applicant no.2-Basanti Pawar.

Learned Counsel Mr. Jaltare for the applicant firstly submits that the report lodged against this applicant no.3 at the instance of the police officials is nothing but an act of false implication of the applicant. He further submits that the applicant no.3, being a lady and engaged in household activities, resisted the act of police officials of approaching the hutment on the allegation that the activity of illicit liquor is going on, and when the residents also resisted the act of police officials, the police officials with a revengeful attitude, implicated the applicants in the crime. The other limb of the submission of Mr. Jaltare is, the applicant is a lady and having

an infant of 1½ years and she has to look after her child. He further submits that the applicant no.3 is an illiterate lady and as the child needs care and attention, the applicant, who is arrested on 27/01/2015 and behind the bars for a period of more than two months, may not be detained in the custody for a further period, as most of the investigation is completed and all the witnesses are the police personnels. He further submits that on the backdrop of fact that all the witnesses are the police personnels, there cannot be any apprehension that the applicant, who is a lady, will be in a position either to tamper the evidence or to give threats to the police personnels.

Mr. S.S. Doifode, the learned A.P.P. vehemently opposes the application. The learned A.P.P. submits that it is the case, wherein the police personnels on receiving information of illegal activities approached the spot. The police personnel found a large quantity of illicit liquor and when the staff started taking steps in discharge of their duties, such as seizure of the illicit liquor and storing it in the police vehicle, the applicant along with other accused assaulted the police staff. The learned A.P.P. further submits that one of the lady constables, who was a member of police staff, was also subjected to assault. The learned A.P.P. then submits that in

case the applicant is enlarged on bail, there is a possibility that the applicant may not be available in the progress of the trial and the same would be a futile exercise.

I have gone through the report and the reply filed by the State. The report and reply though clearly state that on receiving an information, the police staff had been to the spot and found a large quantity of illicit liquor. The material also further refers to the fact that while the police staff was discharging their official duties, the accused persons assaulted the police staff. Some of the accused pelted stones on the police staff and in this assault, a lady constable was injured. On the backdrop of this fact, though the material reflects the role played by the applicant, it also reveals that the major part of investigation is concluded as all the major witnesses are the police personnels. The applicant was arrested immediately and she is behind the bars for more than two years. It is also not in dispute that the applicant is a lady having an infant of 1½ years of age. The applicant, being a lady and mother and the infant certainly needs care and protection of his mother, no purpose would be served by keeping the applicant behind bars for further period. The apprehension of the prosecution can be taken care of by imposing certain conditions on the applicant thereby asking the applicant a periodical

attendance. The learned Counsel for the applicant has made out a case for enlargement of the applicant on bail.

In view of the above referred facts, the application is allowed. The applicant be released on bail on her furnishing P.R. Bond in the sum of Rs.20,000/- (Rupees Twenty Thousand Only) with one or two solvent sureties in the like amount on the following conditions.

- i. The applicant to attend Police Station Jalalkheda, District Nagpur, on every second and forth Sunday of the month from 09:00 a.m. to 12:00 p.m. and maintain a diary of her attendance to the police station duly countersigned by the Investigating Officer or the Police Station Officer, till the trial commences.
- ii. The applicant shall not tamper with the evidence nor commit any act such as contacting the prosecution witnesses or pressurize them.
- iii. The applicant to submit her residential address and contact numbers, such as phone/mobiles numbers, to the investigating agency.
- iv. In case the applicant is moving out of the area of Police Station Jalalkheda, she shall take permission and inform the concerned Police Station about her visit to other place.

In case of any breach of the conditions by the applicant, the State would be at liberty to move this Court.

Needless to say that these are the observations of the Court while deciding the present bail application and the learned Sessions Judge may not be influenced by these observations while conducting the trial.

The application is disposed of as such.

JUDGE

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