

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

Criminal Application [BA] No.526 of 2015

(Mustafa Sheikh Taj Mohammad and others

vs.

The State of Maharashtra, through PSO Ganeshpeth, Nagpur)

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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

*Mr. S.A. Chaudhari, Advocate for the Applicants.
Mr. V.A. Thakre, A.P.P. for the Non-Applicant/State.*

CORAM : V.M. DESHPANDE, J.

DATE : AUGUST 27, 2015.

At the outset, learned Counsel Mr. Chaudhari, on instructions, submits that he wishes to withdraw the application for applicant No.2-Adil Khan Samad Khan.

Prayer accepted. The application is disposed of as withdrawn for applicant No.2.

The F.I.R. is lodged by Abdul Rashid s/o Sheikh Ibrahim. 18 persons are named in the F.I.R. After perusal of the F.I.R., it is clear that the specific role of assault attributed against two persons, they are Taj Mohammad and Sheikh Yusuf Sheikh Amir. This Court has already rejected the anticipatory bail application of Taj Mohammad.

The investigation is still incomplete. The charge-sheet is yet to be filed.

Looking to the specific role attributed against

applicant No.5-Sheikh Yusuf Sheikh Amir and considering the fact that the investigation is not complete, his application cannot be considered favourably.

Hence the application of applicant No.5-Sheikh Yusuf Sheikh Amir is hereby rejected.

Insofar as the remaining applicant Nos.1, 3, 4 and 6 are concerned, though their names are mentioned in the F.I.R. and in the statement of other prosecution witnesses, as pointed out by the learned A.P.P., no specific role is attributed against them. Further one of the weapons that was used by applicant No.5-Sheikh Yusuf Sheikh Amir along with co-accused Taj Mohammad is already recovered at his instance. The applicants are in jail since 07/07/2015.

Looking to the nature of evidence as collected against them, I see no reason for their continuous presence in the jail merely because the charge-sheet is not filed. Hence the following order :

- ➔ The application of applicant No.2-Adil Khan Samad Khan is disposed of as withdrawn.
- ➔ The application of applicant No.5-Sheikh Yusuf Sheikh Amir is hereby rejected.
- ➔ The application for applicant No.1-Mustafa Sheikh Taj Mohammad, applicant No.3-Mohammad Khurram

Mohammad Yusuf, applicant No.4-Eilas Mohammad Sheikh Alim and applicant No.6-Sheikh Asif Sheikh Alim is allowed.

- ➔ They be released on bail on their executing P.R. Bond in the sum of Rs.20,000/- (Rupees Twenty Thousand Only) with one solvent surety in the like amount for each of them in connection with Crime No.115/2015, registered with Police Station Ganeshpeth, Nagpur, before the trial Court.
- ➔ The applicant Nos.1, 3, 4 and 6 shall attend the Police Station Ganeshpeth, Nagpur twice in a week preferably on Monday and Saturday in between 03:00 p.m. to 05:00 p.m. till the charge-sheet is filed and thereafter once in a fortnight preferably on Wednesday in between 03:00 p.m. to 05:00 p.m. till the charge is framed by the trial Court.
- ➔ With these, the application is partly allowed and disposed of.

JUDGE

**sdw*