

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

Criminal Application (BA) No. 753 of 2015
Shaikh Salim v. The State of Maharashtra

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's Orders.

Court's or Judge's orders.

Mr Tejas Deshpande, Adv h/f Mr F.T. Mirza, Adv for applicant
Mr P. V. Bhoyar, APP for respondent-State

Coram: V. M. Deshpande, J
Date : 29th October 2015

1. Heard Mr Tejas Deshpande, learned counsel h/f Mr F. T. Mirza, learned counsel for the applicant and Mr P. V. Bhoyar, learned Additional Public Prosecutor for respondent-State.
2. This is an application for regular bail. Applicant is arrested in crime No. 152/2015 registered with Police Station, Yavatmal (City) for the offences punishable under Sections 302, 201, 323 read with Section 34 of the Indian Penal Code.
3. The investigation is over and the charge-sheet is also filed. Deceased is one Nitesh. The first information report is lodged by his brother-in-law by name Samadhan Kale. Samadhan Kale is not eye witness. From the charge-sheet, it is crystal clear that there is no eye witness account in support of the prosecution case. The entire case of the prosecution is based on extra-judicial confession made to Pannalal Jaiswal. The statement of Pannalal Jaiswal is recorded on 23.5.2015.
4. Important to note is that the first information report was

lodged against four persons including the present applicant and Pannalal Jaiswal to whom it is alleged by the prosecution that extra-judicial confession was made. The Investigating Officer has not charge-sheeted said Pannalal Jaiswal and he was discharged. Except extra-judicial confession allegedly made to Pannalal Jaiswal, there is no incriminating material against the applicant. Learned APP would submit that there is statement of Lilabai that deceased Nitesh was last seen in the company of applicant. It is to be noted that statement of Lilabai would reveal that the applicant was not alone. However, there were co-accused persons also.

Further, the statement of Pannalal Jaiswal would reveal that deceased Nitesh along with co-accused firstly enjoyed drinks at the wine bar where quarrel took place between deceased Nitesh and Surendra Gubre. Applicant rescued Surendra Gubre from the attempted knife assault from the deceased. Statement of Pannalal Jaiswal further reveals that after drinks when all the persons were at Saoji Bhojnalaya, that time, Nitesh tried to make assault on the other co-accused persons and the present applicant rescued them from the assault. When there is no incriminating material against the present applicant except the extra-judicial confession which itself is a weak piece of evidence and in view of the fact that the charge-sheet is already filed, further custodial presence of the applicant is not necessary. Hence, the following order :

ORDER

- I. Application is allowed.
- II. Applicant Shaikh Salim @ Salman Kalim Shaikh be released on bail in connection with Crime No. 152/2015 registered with Police Station, Yavatmal (City) for the offences punishable under Sections 302, 201, 323 read with Section 34 of the Indian Penal Code on he executing PR Bond or Rs. 25,000/- with two solvent sureties in the like amount.

- III. Applicant shall attend Police Station, Yavatmal (City) twice in a month i.e. on 1st and 3rd Saturday in between 03.00 and 05.00 pm till the culmination of trial.
- IV. Bail before the trial Court.
- V. With this, the application is allowed and disposed of.

Judge

joshi