

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

CRIMINAL APPLICATION NO.89/2015

(Mohammad Afzal Khan s/o Sujawarkhan ..vs.. Sheikh Ismail @ Babu s/o Sheikh Dada and anr.)

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

Court's or Judge's orders.

Mr. S. P. Hedao, Advocate for applicant.
Ms Neeta Mehta, A.P.P. for non applicant-State.

CORAM : A. B. CHAUDHARI, J.

DATE : DECEMBER 1, 2015.

Heard.

This is an application for cancellation of bail. Learned counsel for the applicant submits that the impugned order granting bail to non applicant no.1 is contrary to record.

I have perused the statement of Mohd. Afzal Khan Sujawar Khan dated 22.05.2015, from which it is clear that the applicant does not have any role of overt act but it is Nishad, who had committed the assault. I have also perused the reasons recorded in paragraph 4 of the order passed by learned Additional Sessions Judge, Wardha, which reads thus:

“4. According to prosecution, role of accused Sheikh Ismail @ Babu is that after quarrel he went to the house and came back alongwith his sons and instigated Nishad to

assault. It is not the case of prosecution that accused Sheikh Ismail @ Babu had committed murder of Imran. Role of accused Sheikh Ismail @ Babu, is appears to be limited. Investigation is completed and charge-sheet has filed. Age of accused Sheikh Ismail @ Babu is about 60 years. Trial will take its own time to decide guilt or otherwise of the accused persons. Accused is permanent resident of Wardha. Therefore, there is no chance of absconding. In such circumstances, no purpose will be served by keeping applicant/accused behind the bar. Apprehension of prosecution can be safeguarded by imposing conditions.”

I do not find that the discretion exercised by the trial Court while releasing the non applicant no.1 on bail can be said to be perverse.

In view of above, Criminal Application No.89/2015 is rejected.

JUDGE