

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL APPLICATION NO. 680 OF 2015

Mohammad Shaban Peer Mohammad ... Applicant.

V/s.

The State of Maharashtra & Anr. ... Respondent.

Ms. Nasreen Sajid K. Ayubi, Advocate for the Applicant.

Mr. Deepak Thakery, A.P.P. for the Respondent – State.

CORAM : A. M. BADAR, J.

DATE : 26th JULY, 2016

P.C. :

1 Heard learned counsel appearing for the applicant. The applicant is father of the injured. By this application, the applicant is praying for cancellation of bail granted to respondent no.2 in Crime No. 160 of 2015, registered against respondent no.2 and other co-accused with the Ayesha Nagar Police Station, Malegaon, Nashik.

2 Heard the learned counsel appearing for the applicant/informant. She argued that the observations of the learned Additional Sessions Judge, Malegaon while granting bail, are incorrect. Learned counsel argued that the learned Additional Sessions Judge has incorrectly observed that the injured is discharged from the hospital and there is absence of

criminal antecedents so far as respondent no.2 -Ayyaz Ahmed Riyaz Ahmed is concerned. In submission of the learned counsel the injured was admitted to the hospital and was discharged on 16.07.2015. Therefore, at the time of passing the order i.e. on 13.07.2015 the injured was hospitalized. She further argued that respondent no.2/accused was having criminal antecedents. In addition thereof, the learned counsel for the applicant/informant relied upon the report of non-cognizable case for the offence punishable under section 506 of the Indian Penal Code, lodged against respondent no.2/accused.

3 I have also heard learned APP. It is seen that the main reason for releasing respondent no.2/ co-accused in the crime in question is that he had not participated or played prominent role in assaulting the injured by chopper. Learned additional Sessions Judge has observed that allegations about assault by the chopper are mainly against co-accused- Sajid Ahmad Nisar Ahmad @ Natya. On this consideration, the application for bail came to be granted and accused no.2 herein was directed to be released on bail.

4 It is seen from the pleadings that the injured was discharged from the hospital on 16.07.2015. So called antecedents are N.C. Case No.195 of 2015 under section 506 of the Indian Penal Code, wherein it is averred that there was

threatening by respondent no.2 to Mohammad Shaban Peer Mohammad. These aspects are inconsequential as main reason is the part played by respondent no.2 in the assault. Prima facie, the order granting bail does not seem to be perverse or illegal. Hence, I find no substance in the application.

5 The criminal application is therefore, rejected.

(A. M. BADAR, J.)

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