

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

Bail Application (B.A.) No.49 of 2016
(Sheikh Haji Sheikh Sarvar and others v State of Maharashtra through
P.S.O. Ghuggus, Tah.& Distt. Chandrapur)

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

Court's or Judge's orders

[Shri Akshay Naik, Advocate for applicants.
Smt. Rashi Deshpande, APP for non-applicant.]

CORAM : A.B. CHAUDHARI, J.
DATED : 04.04.2016.

1] The learned Counsel for the applicants submits that this is the second bail application filed by the applicants/accused persons. The reasons for filing this second bail application are :-

i] Period of 10 months has passed but the charge has not been framed by the trial Court;

ii] The applicants are ready to stay away from Chandrapur town and would not enter into Chandrapur town except for the date of appearances before the trial

Judge.

2] In earlier order dated 17-06-2015, this Court has observed that the applicants were entitled to grant of bail, but looking to their criminal antecedents the order of bail was denied by this Court.

3] Heard learned Counsel for the rival parties. I have perused the earlier order made by this Court on 17-06-2015 in Criminal Application (BA) No.302 of 2015. I quote the following observations from the said order as under :-

Prima facie I find on the merits of the matter that the applicants may be entitled to grant bail in this crime. However, I find from the antecedents of both the applicants that there is a chain of criminal cases

against them pertaining to injury to human body with regular intervals. Not only that there was also a proposal of applying MCOCA on both the applicants but it was not applied. The applicants in this background do not deserve to be granted bail. I found the offence under Section 307 of the Indian Penal Code may not be made out but they are entitled for bail. I think the discretion of grant of enlargement of bail in favour of the applicants cannot be exercised. Hence, I make the following order.

4] It is clear from the above said observations that after perusal of the record this Court found that no case is made out for offence punishable under Section 307 of the Indian Penal Code and therefore the applicants are entitled for grant of bail. Despite observing that they were entitled to bail, this Court rejected the bail application because it found that the applicants were facing large number of prosecution.

5] It is not in dispute that till date the trial Court has not framed the charge against the applicants right from June 2015 when the earlier order was passed by this Court.

6] The learned A.P.P. for the state has submitted that the date is fixed for framing of charge in this month i.e. in April, 2016.

7] The above submission made by the learned A.P.P. is countered by Shri Naik, the learned Counsel for the applicants and states that the same position is in existence since over nine months and the trial Court yet has not framed the charge.

8] In the light of above discussion, I have seen that much period has already

been passed and this Court *prima face* found that the applicants were entitled to bail, hence, this Court allows the bail application filed by the applicants, subject to the condition that the applicants shall not enter into Chandrapur town till the trial is completed except for the date of appearances before the trial Judge.

9] On behalf of the applicants, Shri Naik, the learned Counsel states that the applicants would not apply for modification of this condition or shall not enter into Chandrapur town. That being so, I make the following order :

Order

A] Bail Application (BA) No.49 of 2016 is allowed.

B] Applicant no.1- Sheikh Haji Sheikh Sarvar, applicant no.2 Rahul s/o

Dinesh Dangore and applicant no.3-Mohammed Shadab s/o Abdul Rauf Suleman Sheikh shall be released on bail on furnishing a PR bond in the sum of Rs. 20,000/- each with one surety in the like sum.

C] The applicants shall not enter the boundary of Chandrapur town till the trial is over except for the date of appearances before the trial Judge.

D] The applicants shall move the address of their place of residents to the concerned Police Station.

JUDGE