

FARAD CONTINUATION SHEET

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH : NAGPUR.****Criminal Application (ba) No. 406 of 2016**

Shaikh Salman s/o Shaikh Rahim

v.

The State of Maharashtra

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

Court's or Judge's orders

Mr. Sk. Sabahatullah Advocate for the applicant.
Mr. S.S. Doifode, APP, for respondent/State.

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Coram : S.B. Shukre, J.**Date : 18th JULY, 2016.**

Heard learned counsel for the applicant and learned APP for the respondent/State.

It is submitted on behalf of the applicant that his name is not mentioned in the F.I.R. dated 26.6.2015 and that the only circumstance which is against him, if at all goes against him, is the identification made by the complainant and that too after about two months from the date of the incident. He further submits that charge-sheet has been filed and, therefore, with such evidence on record, now the applicant would be entitled to be released on bail.

Learned APP submits that apart from identification circumstance, there is one more circumstance in the nature of seizure of motor cycle from this applicant and, therefore, according to him, this application should not be granted.

On perusal of the charge-sheet, I find that there is material available on record which prima facie incriminates the present applicant. No doubt, his name is not mentioned in the F.I.R. and that he has been identified

about two months after his arrest, but in my view, it would make no difference at this stage, as it would be something that would require consideration on merits when detailed evidence would be available on record. Besides, there appears to be no reason which could be ascertained from the material so far collected against the applicant for the complainant and other witnesses to falsely identify the present applicant. If the police are holding identification parade belatedly, the complainant or the witnesses who make identification in such parades, cannot be held responsible for the delay and their versions treated as of doubtful nature. As said earlier, this will have to be considered on merits of the case. But, fact remains that there is material available on the basis of which prima facie involvement of the applicant in the offence registered against him can be seen. Deceased Mohit had sustained 79 injuries on his person and this shows brutality of the assault made upon him by all the accused. It also prima facie discloses the cruel nature and barbarism of the assailants which would make the possibility of applicant misusing liberty as reasonable. In these circumstances, the application cannot be allowed.

The application stands rejected.

Judge

/TA/

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