

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

CRIMINAL APPLICATION (ABA) NO.684 OF 2016

(Sheikh Mujir Sheikh Jindewali ..vs.. State of Maharashtra, through PSO, PS Ballarpur, District Chandrapur)

WITH

CRIMINAL APPLICATION (ABA) NO.705 OF 2016

(Abdul Karim Mohd. Usman ..vs.. State of Maharashtra, through PSO, PS Ballarpur, District Chandrapur)

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

Court's or Judge's orders

Shri M.N. Ali, Advocate for the applicants,
Shri C.A. Lokhande, Addl.P.P. for the non-applicant.

CORAM : P.N. DESHMUKH, J.

DATED : 29-11-2016

The learned Counsel for the applicants seeks leave to amend the applications suitably by deleting paragraph No.15 in Criminal Application (ABA) No.684/2016 and Paragraph No.16 in Criminal Application (ABA) No.705/2016.

Leave as prayed is allowed.

Amendment be carried out forthwith.

Both these applications arise out of Crime No.649/2016 registered by Police Station Ballarshah District Chandrapur, for the offences punishable under Sections 65(e) and 83 of the Maharashtra Prohibition Act, contending that only role attributed to the applicants is of their involvement by co-accused who

came to be arrested on the spot where from contraband liquor came to be seized. The learned Counsel for the applicants by referring the contents of report has contended is that the seized contraband is supplied by co-accused Atish Borule to applicants, who is released on bail. By referring to further document on record filed in support with application being application for anticipatory bail for Khwaja Sheikh, it is pointed out that he too is released on bail by the Sessions Court alongwith co-accused Umesh Nisanab who were found present on the spot where contraband liquor is seized.

It is further contended that, co-accused Khwaja Sheikh in his application has made specific statement, about police authorities beating said applicant due to which he sustained injuries while in custody, of which no cognizance is taken by the learned Judicial Magistrate First Class. It is further submitted that since all other co-accused are already released on bail, the applications be allowed.

The learned Additional Public Prosecutor has opposed the applications contending that contraband liquor involved in the crime is worth Rs.39,50,000/-, which according to the prosecution case is seized from godown in the raid conducted by the police on the basis of information received.

Though huge quantity of contraband liquor is seized, which is involved in this case, there is nothing to establish that the applicants were owner of said godown. Though it also appears that contraband liquor was also seized from vehicles parked near the go-down, admittedly applicants are not owners of said vehicles. Though it is further case of the prosecution that at the time of seizure of contraband liquor some persons were loading the boxes of contraband liquor bottles from godown, out of them some were successful in fleeing away from the spot, fact remains that involvement of the applicants is only bay way of statement of co-accused and nothing more.

In that view of the matter and though the investigation is in progress and on considering the nature of evidence against the applicants as aforesaid, and since co-accused are already released on bail, applicants are entitled to be released on bail by imposing suitable conditions as per order below.

In the event of arrest of applicants in Crime No.649/2016 registered by Police Station Ballarshah, District Chandrapur, applicants shall be released on bail on their executing P.R. Bond in the sum of Rs.30,000/- each with one surety in the like amount for each of them. Applicants shall attend Investigating Officer for a period

of one week from 02-12-2016 to 09-12-2016 and thereafter shall not stay within the territorial limits of Ballarshah, till filing of charge-sheet. Applicants shall supply proof of residence and shall update the same in the event of change of residence in future.

The applications are allowed accordingly.

JUDGE

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