

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

923 CRIMINAL WRIT PETITION NO.269 OF 2009

1. Shaikh Umar Shaikh Aziz,
Age 45 years, Occu. Agri.
R/o Talwada, Tq.Vaijapur,
District Aurangabad.
 2. Shaikh Hanif S/o Shaikh Umar,
Age 25 years, Occu. Agri.
R/o Talwada, Tq. Vaijapur,
Dist. Aurangabad.
 3. Shaikh Waseem S/o Shaikh Shamim,
Age 22 years, Occu. Agri.
R/o Talwada, Tq. Vaijapur,
Dist. Aurangabad.
 4. Shaikh Mohsin S/o Shaikh Shamim,
Age 20 years, Occu. Agri.
R/o Talwada, Tq. Vaijapur,
Dist. Aurangabad.
 5. Shaikh Jameel S/o Shaikh Umar,
Age 18 years, Occu. Agri.
R/o Village Talwada, Tq. Vaijapur,
Dist. Aurangabad.
- ... Petitioners

Versus

1. The State of Maharashtra,
 2. The Superintendent of Police,
(Rural), Aurangabad.
 3. The Police Inspector,
Local Crime Branch (Rural),
In the campus of Superintendent
of Police Rural, Aurangabad.
 4. The Police Inspector,
Shivoor Police Station,
Tq. Vaijapur, Dist. Aurangabad.
- ... Respondents

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Mr. P.G.Borade, AGP for State/Respondent Nos.1 to 4

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**CORAM : T.V.NALAWADE, AND
SUNIL K. KOTWAL, JJ.**

DATED : 20th July, 2017

ORAL JUDGMENT (Per Shri. T.V.Nalawade, J.) :-

1. Nobody is present for the petitioners. Learned Additional Public Prosecutor is heard.

2. This petition is filed for restraining the respondents from starting the proceedings under Section 107 or 110 of Criminal Procedure Code. It appears that, a crime was registered against the petitioners in Shivoor Police Station, Vaijapur vide Crime No.3008/2008 and they were granted bail. The petitioners were apprehending that to detain them in custody, the police may use the aforesaid provisions and file chapter case and may detain them and so the present proceeding is filed.

3. The reply-affidavit is filed by Respondent / State and through that details of crimes registered against petitioners and more particularly Petitioner No.1 are given. Some crimes were under

Essential Commodities Act. In the past also some action was taken under provision of Section 110 of Cr.P.C.

4. The provisions of Chapter No.VIII of Cr.P.C. give powers to the police to take measures for security and for keeping peace and also for good behaviour. Specific instances are mentioned, in which such proceeding can be filed by police. The matter involves subjective satisfaction of police and further there is power with the Executive Magistrate to ascertain whether the provisions can be used against person like petitioner.

5. In view of these circumstances, relief which is claimed in this petition cannot be granted to the petitioners. Petition stands dismissed. Rule is discharged.

(SUNIL K. KOTWAL, J.) (T.V.NALAWADE, J.)

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