

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

CRIMINAL APPLICATION (BA) NO.35 OF 2017

Abdul Navshad s/o Abdul Gani Sheikh and ors

..VS..

The State of Maharashtra, through Police Station Officer, Police Station
Bhandara, District Bhandara

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

Court's or Judge's Order

Shri R.M. Daga, Counsel for the Applicants.

Mrs. K.H. Deshpande, Addl.P.P. for the Non-applicant/State.

CORAM : P.N. DESHMUKH, J.

DATED : JANUARY 25, 2017.

All these applicants, involved in Crime No.334 of 2016 registered for the offences punishable under Sections 323, 324, 326, 307, 143, 144, 147, 148, and 149 of the Indian Penal Code and Sections 4 and 25 of the Arms Act, have sought bail.

Heard learned counsel for the applicants and learned Additional Public Prosecutor for the non-applicant/State.

It is submitted that the application is arising out of a counter case as before Crime No.334 of 2016 was registered, on the basis of report lodged by Maksud Khan, brother of one of co-accused Crime No.333 of 2016 is registered with same police station for the offences punishable under Sections 323, 324, 326, 307,

143, 144, 147, 148, and 149 of the Indian Penal Code and Sections 4 and 25 of the Arms Act.

It is submitted that even on considering the report, there is absolutely no overt act attributed to applicant Nos.1, 2, and 3 and overt act attributed to applicant No.4 is vague. It is, therefore, submitted that having considered available evidence against applicants as aforesaid and as nine other co-accused are protected from their arrest by learned Sessions Judge, since applicants are behind bar from the date of their arrest from 21.12.2016, the application be allowed by imposing suitable conditions.

Learned Additional Public Prosecutor has opposed the application as per reply on record.

It appears to be the case of the prosecution that on 21.12.2016 complainant saw applicants along with co-accused having armed with swords and knives and had took up quarrel with Raju Patel, Naimuddin Sheikh, Arif Patel, Sohail Patel and assaulted them. The complainant along with Faisal Patel tried to pacify quarrel. However, they were also assaulted by wooden rod and based on report lodged by complainant, the F.I.R. came to be registered as aforesaid.

In the background of submissions advanced on behalf of applicants, on perusal of report it is noted that except for naming applicant Nos.1, 2, and 3 no

overt act is attributed to them in the present incident. So far as applicant No.4 Vasik Khan s/o Iqbal Khan is concerned, he is stated to have assaulted injured Arif Patel, Sohail Vakil Patel, and Arshad Iqbal Sheikh along with other co-accused on their heads, back, and hands by sticks after making them fall on the ground.

In view of the contents of the report as aforesaid, injury certificates of injured, if perused, it reveals that Arif Patel has sustained one injury in the form of amputation of index finger of his right hand as well as one CLW on forehead and abrasion. Injured Naimuddin Sheikh is found to have sustained CLW on right parital area and on right foreento parital area with one abrasion and two contusions while injured Firoz Khan Jalil Khan is certified to have sustained one linear abrasion. Having considered the fact of vague overt act as aforesaid alleged against applicant No.4 and as there is no any overt act attributed against applicant Nos.1, 2, and 3, as investigation is complete, there is no propriety keeping applicants behind bar, pending trial. The application is thus liable to be allowed by imposing the conditions. Hence, the following order:

The applicants shall be released on bail on their executing P.R. Bonds in the sum of Rs.50,000/- (rupees fifty thousand only) each with one surety each in the like amount.

While on bail, applicants shall mark their

presence with investigating officer at Bhandara Police Station on every Monday, till filing of the charge-sheet and, thereafter, quarterly on the first day of each such month, pending Trial.

The applicants shall submit proof of their residence with the investigating officer and shall update the same in the event of change in future.

JUDGE

!! BRW !!

C E R T I F I C A T E

I certify that this Order/Judgment uploaded is a true and correct copy of original signed Order.

Uploaded by : Bhushan R.Wankhede.
(Personal Assistant)

Uploaded on :- 27/1/2017