

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

CRIMINAL APPLICATION (ABA) NO. 315/2017

Afsar Khan Hyder Khan and another

Vs

State of Maharashtra, Through PSO, P.S. Washim (City), Tq. & Dist. Washim

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

Court's or Judge's orders

Shri R.M. Mardikar, Adv. for the applicants.
Shri A.D. Sonak, A.P.P for the respondent/State.

CORAM : Z.A.HAQ, J.

DATE : 12.7.2017.

Heard.

The applicants seek pre-arrest bail in connection with the crime registered for the offence punishable under sections 302, 307 read with Section 34 of the Indian Penal Code.

The learned advocate for the applicants has submitted that the applicants are falsely implicated and this is clear from the dying declaration of the victim who has referred the names of Aslam & Rubi and she has not referred the names of the applicant no. 1 (Afsar khan) and applicant no. 2 (Rekha).

It is submitted that this Court has granted protection to the applicants by order passed on 9th May,

2017 imposing condition of attendance at the Police Station and the applicants have co-operated with the investigating agency. The advocate for applicants has relied on the judgment given in the case of **Siddharam Satlingappa Mhetre v. State of Maharashtra and others** reported in AIR 2011 S.C.312 and has submitted that as the applicants have co-operated with the investigating agency and the investigation has progressed considerably, the protection granted to the applicants by the order passed on 9th May, 2017 be confirmed.

According to investigating agency, the statement of owner of the tenement, where the incident occurred, and the statement of the son of the owner of tenement disclose that there had been quarrels between the victim and the applicant no.2 and the statements of neighbors show that the neighbors had seen the applicants coming out of the tenement in question, and immediately within a couple of minutes, the victim came out of the tenement in a burnt condition. The investigating agency opposed the application on the ground that the custodial interrogation of the applicant

s is necessary.

Considering the facts of the case, I am not inclined to grant the prayer made in this application. The application is **dismissed**.

The learned advocate for the applicant has submitted that the protection granted by this Court by the order passed on 9th May, 2017 may be continued for 15 days and it is assured on behalf of the applicants that they will surrender immediately on 16th day, if they fail to obtain the appropriate order /relief.

The request is granted.

JUDGE