

FARAD CONTINUATION SHEET No.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

CRIMINAL WRIT PETITION NO. 523/2017

(SHEIKH JOHODDIN SHEIKH BAHODDIN **VERSUS** THE STATE OF MAHARASHTRA, THR. PSO PS,
PINJAR, BARSHITAKLI, AKOLA & ANOTHER)

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

Court's or Judge's orders

Mr. N.L. Jaiswal, counsel for the petitioner.
Mr. A.M. Joshi, A.P.P. for the R-1.

CORAM : REVATI MOHITE DERE, J.

DATE : NOVEMBER 15, 2017.

Heard learned counsel for the parties.

By this petition, the petitioner has impugned the order dated 16.03.2017 passed by the learned Additional Sessions Judge, Akola, below Exhibit 43, by which the petitioner's application for discharge from the case (Sessions Case No.16/2013) came to be rejected.

Learned counsel for the petitioner submits that there is no material *qua* the petitioner in the entire charge-sheet so as to proceed as against him. He submitted that although the petitioner has been named in the F.I.R., no overt act has been attributed.

Learned Additional Public Prosecutor opposed the petition. He submitted that the charge-sheet clearly shows the complicity of the petitioner. He submits that no interference is warranted in the impugned order dated 16.03.2017.

Perused the papers. The petitioner alongwith other co-accused has been charge-sheeted for the offences punishable under Section 147, 148, 149, 326, 307, 506 of I.P.C. A perusal of the F.I.R. lodged by Rashid Khan (injured) reveals that the incident took place on 15.02.2013, at about 9.00 a.m. when he alongwith his wife, son Shamsheer Khan

were going to the bus-stand. The complainant has alleged that when they were near Jama Masjid, he saw Masoddin and his two sons Ashfaq and Naushad as well as Bahoddin and his son Jahoddin (petitioner) standing armed with sticks, rafter and axe. According to the complainant, the said persons abused him and his son and assaulted them with the aforesaid weapons. He has further alleged that co-accused Gaysoddin assaulted him with an axe, whereas, his son was assaulted by sticks and rafter by others. It is pertinent to note, that the petitioner has been named in the F.I.R. and he is also alleged to have assaulted the complainant and his son along with others. A stick has been recovered at the instance of the petitioner. The injury certificate shows that Rashid Khan had sustained an injury on his head with a sharp and hard object. The injury certificate of Shamsheer Khan (son of the complainant) shows that he had sustained a head injury with multiple fractures. The F.I.R. was lodged promptly on the same day.

The material on record, *prima-facie* shows that there is sufficient material to proceed as against the petitioner. No interference is warranted in the impugned order dated 16.03.2017 passed by the Additional Sessions Judge, Akola, below Exhibit 43, in Sessions Trial No.16/2016. The petition is accordingly dismissed. The observations made in the petition are confined to this petition and the trial Court shall conduct the proceedings on its own merits uninfluenced by the same.

JUDGE