

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**NAGPUR BENCH, NAGPUR****CRIMINAL APPLICATION (BA) NO.770/2017**

Mohammad Sohail s/o Mohd. Shakil and anr. ..vs.. State of Maharashtra through PSO
P.S. Wadgaon Road, Yavatmal.

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

Court's or Judge's orders.

Mr. D. M. Upadhye, Advocate for applicants.
Mr. J. Y. Ghurde, A.P.P. for non applicant-State.

CORAM : V.M. DESHPANDE, J.

DATED : AUGUST 18, 2017

Heard learned counsel for the parties.

The applicants are arrested in connection with Crime No.461/2017 registered with Police Station, Wadgaon Road, Yavatmal for an offence punishable under Sections 143, 147, 148, 149, 294, 325, 326, 452 and 506 of the Indian Penal Code.

The bail application is strongly opposed by learned A.P.P. on the ground that investigation is still in progress, the charge-sheet is yet to be filed and other accused persons are still at large.

FIR is lodged by one Rukhsana Shaikh Mansoor on 09.05.2017. According to the FIR, there is matrimonial dispute in between her brother and one co-accused Shahidabi Shaikh Dawood. As per the FIR, custody of the children of the said couple was with the brother of the first informant and they used to reside at Indira Nagar, Yavatmal. On 08.05.2017 at about 3.00 O'clock, present applicants and other accused persons barged into the house of the complainant and demanded custody of the minors. That

time, brother of complainant was away from home in discharge of his duty as Cleaner of the truck. On the said day and time, as per the allegations, present applicant no.1 gave blow of Sattur on the legs of injured Shaikh Rajik Shaikh Mansoor and he was helped by applicant no.2 by holding the injured.

I have perused the injury certificate which is available in the police papers. It shows that there were two incised wounds on thigh and left leg of the injured. The nature of injury no doubt is grievous one. However, now the question is as to for how much time the applicants should be languished in jail.

Though the charge-sheet is not filed, the investigation papers show that the entire investigation is almost over and even as per the learned A.P.P. only the formality of filing of the charge-sheet is remained. Further, the weapon that is used is also seized, clothes of the injured so also applicants are also seized. The applicants are in jail since 10.07.2017. Further, the injured is already discharged from the hospital. Thus, there is least possibility of conversion of the offence into the grievous one. Further, the injury report shows that there was never an intention on the part of applicants to cause grievous injury to the injured as could be seen from the injuries which are not inflicted on vital parts of the injured.

In that view of the matter, further incarceration of the applicants in jail is not necessary. Further, interest of the prosecution can be very well protected by imposing

certain conditions. Hence, following order is passed.

ORDER

- (i) Criminal Application No.770/2017 is allowed.
- (ii) The applicant no.1-Mohammad Sohel s/o Mohd. Shakil and applicant no.2-Syed Iqbal s/o Syed Gaffar are directed to be released on bail in connection with Crime No.461/2017 registered with Police Station, Wadgaon Road, Yavatmal for an offence punishable under Sections 143, 147, 148, 149, 294, 325, 326, 452 and 506 of the IPC, on they executing PR bond in the sum of Rs.25,000/- each with one solvent surety each.
- (iii) The applicants shall not enter the jurisdiction of Yavatmal district except on the day of attending the case before the Court at Yavatmal.
- (iv) The applicants shall attend Police Station, City Kotwali, Amravati once in a month i.e. on the last Sunday of every month in between 3.00 p.m. to 5.00 p.m. till the culmination of the trial.
- (v) If the investigating officer notices that the applicants have committed breach of conditions or they are causing any threats to the prosecution witnesses or trying to remove the minors then in that event the investigating officer shall be free to move for cancellation of the bail granted to the applicants.

JUDGE