

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

CRIMINAL APPEAL NO.43/2019
Shaikh Arif s/o Shaikh Kabul and ors

..VS..

State of Mah., thr. PSO PS Barshitakli, Akola and anr

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

Court's or Judge's Order

.....
Shri U.J.Deshpande, Counsel for the appellants.
Shri A.M.Joshi, Addl.P.P. for the State.

CORAM : V.M. DESHPANDE, J.
DATED : FEBRUARY 4, 2019.

1. Heard learned counsel Shri U.J.Deshpande for the appellants and learned Additional Public Prosecutor Shri A.M.Joshi for the State.
2. On 22.1.2019, Notices on this appeal were issued. By the said order, respondent No.2 was to be served through the Superintendent of Police, Akola.
3. Today, when the present appeal was called out, learned Additional Public Prosecutor Shri A.M.Joshi for the respondent/State tendered a Pursis along station diary entry and statement of head constable. The said Pursis along with the documents is taken on record and marked as "Annexure-X" for the purposes of identification. From the said Pursis and the said documents, it is clear that when officials of Barshitakli Police Station, District Akola went to house of respondent No.2 to serve copy, it was found that the house was locked and since 1½ month he is not found in the village

nor his address is there.

4. The present appeal questions order dated 20.11.2018 passed by learned Additional Sessions Judge, Akola whereby learned Judge of the Court below rejected application filed on behalf of the appellants for grant of bail in their favour for offences 354-A(3), 324, 504, and 506 read with Section 34 of the Indian Penal Code with Section 3(1) (w)(i) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989.

5. Respondent No.2 is complainant. According to complaint lodged on 5.10.2018, the appellants have committed offences under Section 354-A, 354-D, 324, 504, and 506 of the Indian Penal Code and also assaulted on the first informant. All 3 appellants are arrested on 19.10.2018 and since then there are in jail.

6. The complainant is not available. However, the appellants who are in jail since 19.10.2018 need not be detained till complainant is served.

7. Looking to the nature of accusations made against the appellants and fact that investigation is already over and chargesheet is already filed, leads me to pass following order:

ORDER

(i) ADMIT. Issue fresh Notice to respondent No.2.

(ii) Pending the present appeal, appellant No.1-Shaikh Arif s/o Shaikh Kabul; appellant No.2-Shaikh Wasim s/o

.....3/-

Sk.Nawab, and appellant No.3-Irshad Khan s/o Sanaullah Khan, be released on bail on their executing P.R.Bond in the sum of Rs.5000/- with one solvent surety of the like amount.

(iii) The appellants are directed to visit Barshitakli Police Station, District Akola and mark their presence once in a month and shall maintain case diary showing their presence in the police station.

(iv) The appellants shall not try to intimidate any of prosecution witnesses.

(v) Learned Additional Public Prosecutor waives service on merit on behalf respondent No.1/State.

(vi) Respondent No.2 should be served notice of admission of the appeal also through the Superintendent of Police, Akola.

(vii) Since this Court has granted bail to the appellants pending this appeal, Criminal Application (APPA) No.65/2019 has rendered infructuous.

JUDGE

!! BRW !!

...../-