

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

**CRIMINAL APPLICATION (BA) No. 649 OF 2019**

**Sheikh Ashif Sheikh Ibrahim**

**..VS..**

**State of Maharashtra, Through PSO PS, Shirpur, Dist.Yavatmal**

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

Shri. A. S. Dhore, Advocate for the applicant.  
Shri. H. R. Dhumale, APP for the non-applicant State.

**CORAM : Manish Pitale J**

**DATED : 08.08.2019**

The applicant has approached this Court seeking bail, as he stood arrested on 27.04.2019 in connection with First Information Report (FIR) dated 09.03.2019, whereby offences under Sections 353, 332, 336, 143, 147, 149 and 427 of the Indian Penal Code(IPC) were registered against him and other co-accused person named Sheikh Arif was granted regular bail by this Court by order dated 03.06.2019 by imposing certain conditions. It was claimed that the applicant deserves to be granted bail for the same reasons.

2. The incident in question in the present case has given rise to two FIRs. Crime No. 157/2019 was registered on 09.03.2019 and it is in connection with said FIR that the present application is filed, while another FIR bearing Crime No.159/2019 was registered

on the same day i.e. 09.03.2019 against the applicant and others at the behest of another set of complainant, in connection with the very same incident. The allegation is that, the applicant and co-accused persons had obstructed certain women of the village, who had taken up the cause of alcohol prohibition and they had indulged in violence and that upon the police reaching the place of the incident, the applicant and other co-accused persons pelted stones on the police staff and thereafter, assaulted women with rods and sticks. As regards Crime No.159/2019 applicant was granted bail by the Sessions Court.

3. The learned counsel for the applicant invited attention of this Court to the contents of the FIR, as well as statement given by the witnesses, to contend that the only role attributed to the applicant was that, he came out of the mob and incited the co-accused person to assault the police by way of throwing stones. It was contended that when co-accused Sheikh Arif was already granted bail by this Court and three other co-accused persons were granted bail by the Sessions Court, the applicant deserved to be enlarged on bail.

4. The learned APP opposed grant of bail in the present case, pointing out that the applicant has criminal antecedents including offences registered against him under the provisions of Maharashtra Prohibition Act, 1949 and the aforesaid two FIRs registered for the incident that took place on 08.03.2019. It was pointed

out that the statements of witnesses throughout were consistent on the role of the applicant and distinguishable from the case of the co-accused Sheikh Arif who was granted bail by this Court. It was submitted that if the applicant is granted bail, he would most likely indulge in the same activities, thereby, causing much inconvenience to the society at large.

5. Heard learned counsel for the rival parties and perused the material on record, there is no doubt about the fact that the applicant does have criminal antecedents and it has mentioned that, as many as five criminal cases have been registered against him for the offences under the provisions of Maharashtra Prohibition Act, 1949. Insofar as the other offences are concerned, they pertain to the aforesaid two crimes bearing Nos. 157/2019 and 159/2019 for the incident that took place on 08.03.2019. A perusal of the material on record shows that the role attributed to the applicant was that, he came out from the mob when the incident took place and incited the co-accused persons to assault the police. The act attributed to the applicant, no doubt led violence against the police leading to registration of the said offence, but since the applicant has been behind bars since 27.04.2019 and charge-sheet has been already filed on 08.05.2019, coupled with the fact that co-accused person has been granted bail, this Court is of the opinion that the applicant can be granted bail subject to stringent conditions to be imposed against him.

6. Accordingly, the present application is allowed and the applicant is granted bail in Crime No.157/2019 registered at Police Station Shirpur, District Yavatmal on the following conditions :-

(i) The applicant shall furnish P.R. bond of Rs.50,000/- (Rs. Fifty Thousand) with a surety of like amount.

(ii) The applicant shall not enter within the limits of Police Station Shirpur, taluka Wani, district Yavatmal, during the pendency of the trial.

(iii) The applicant shall inform the trial Court about the place of his residence outside the limits of Police Station Shirpur, taluka Wani, district Yavatmal, during the pendency of the trial and he shall report once in a week i.e. on Monday before the Police Station in whose jurisdiction he chooses to reside during the pendency of the trial, between 10.00 a.m. and 5.00 p.m. If the applicant further changes his place of residence during the pendency of the trial outside the limits of Police Station Shirpur, taluka Wani, district Yavatmal, he shall inform the trial Court regarding the same and then report to the concerned Police Station in the aforesaid manner.

(iv) The applicant shall not tamper with the evidence or influence the witnesses.

(v) If it is found that the applicant has indulged in any activity in the future concerning violation of the provisions of Maharashtra Prohibition Act, 1949 or any other Criminal Offence, the bail granted to the applicant shall stand cancelled.

7. The application is allowed in above terms. Needless to say, violation of any of the conditions above, shall lead to cancellation of bail granted to the applicant. It is made clear that the observations made in the present order are limited to the question of grant of bail to the applicant.

**JUDGE**

*KOLHE*