

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

CRIMINAL APPLICATION (ABA) NO. 16 OF 2020

Sk. Salman Sk. Latif and others .Vs. State of Maharashtra, through PSO, PS,
Buldana (Gramin), Dist. Buldana.

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

Court's or Judge's orders.

Mr. S.D. Chande, Advocate for applicant.

Mr. V.A. Thakare, A.P.P. for non applicant-State.

CORAM : V. M. DESHPANDE, J.

DATED : JANUARY 21, 2020.

Heard Mr. Chande, learned counsel for the applicant and Mr. Thakare, learned Additional Public Prosecutor for non applicant-State. Also, perused the reply filed on behalf of the prosecuting agency and the investigation papers.

Applicants are apprehending their arrest in connection with Crime No.367/2019 registered with Police Station, Buldana (Gramin), Dist. Buldana for an offence punishable under Sections 143, 147, 148, 149, 294, 307, 323, 324, 506 read with Section 34 of the Indian Penal Code and under Section 135 of the Maharashtra Police Act.

Incident is dated 01.12.2019. Statement of injured Nitin Jadhav was recorded at Mahatma Gandhi Mission Hospital, Aurangabad is treated as a First Information Report (FIR). The statement is dated 02.12.2019 and FIR is registered on 03.12.2019.

The names of applicants are figuring in the FIR. They are shown as accused nos. 2 to 6. Accused no.1-Shaikh Kayum Shaikh Ayyub and accused no.7-Shaikh Saddam Shaikh Latif are not before the Court.

Accused no.1- Shaikh Kayum Shaikh Ayyub runs a mutton shop at Buldana. On 01.12.2019, injured Nitin had been to said shop. That time along with accused no.1-Shaikh Kayum, his brother applicant no.3-Shaikh Yunus was present. Nitin purchased meat and gave ₹500/- thereafter applicant no.3 returned ₹280/- upon that Nitin asked that for 0.5 Kg he should have taken ₹200/-. On this count accused no.1 – Shaikh Kayum used abusive language and pushed Nitin. Thereafter, the other persons asked Nitin to leave the place and accordingly when was returning to his house near *Vitthal* temple he met his father Narayan Jadhav and disclosed the incident. Upon that his father asked him to accompany to the shop of accused no.1 since they were having cordial relations. Both father and son then again went mutton shop of accused no.1 and when Narayan was trying to ask the said accused as to why he has picked up quarrel at that time accused no.1-Shaikh Kayum assaulted on Nitin by means of the weapon which is used in cutting the mutton on his head. When his father Narayan tried to intervene and save him that time accused no.7– Shaikh Saddam also assaulted by means of knife on Narayan. According to FIR, that time the present applicant gave fist blows. In the FIR itself the names of eye witnesses are mentioned, who witnessed the incident.

With the assistance of learned Additional Public Prosecutor, I have perused the statements of eye witnesses whose names are mentioned in the FIR. Their statements also revealed that only accused nos.1 and 7 have assaulted on Nitin and his father Narayan by means of deadly weapons in their hands as stated in the FIR and also their statements would show that present applicants assaulted by means of fist and kick blows.

Thus the role of assault on both the injured resulting into injuries to them by means of deadly weapons is not attributed against any of the applicants.

This Court on 13.01.2020, interim protection was granted to the applicants with a direction that they shall attend the police station from 15.01.2020 to 19.01.2020. Accordingly they have attended the police station and joined the investigation is the statement made by learned Additional Public Prosecutor on the instructions received from the investigating officer.

On evaluation of the aforesaid, I am of the view that discretion can be extended in favour of the applicants. That leads me to pass the following order:

ORDER

- (i) The application is allowed.
- (ii) In the event of arrest in connection with Crime No.367/2019 registered with Police Station, Buldana (Gramin), Dist. Buldana for an offence punishable under Sections 143, 147, 148, 149, 294, 307, 323, 324, 506 read with Section 34 of the Indian Penal Code and under Section

135 of the Maharashtra Police Act, applicant Nos. (1) Sk. Salman Sk. Latif, (2) Sk. Sadik Sk. Latif, (3) Sk. Yunus Sk. Ayyub, (4) Sk. Naim Sk. Ayyub and (5) Sk. Faheem alias Ayyum Sk. Ayyub be released on bail on they executing P.R. bond in the sum of ₹10,000/- each, with one solvent surety each in the like amount

(iii) Applicants are directed to attend Police Station, Buldana (Gramin), Dist. Buldana as and when they are called by the investigating officer. However, for that the investigating officer shall give clear cut two days written communication to them.

The application is disposed of.

JUDGE