

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

CRIMINAL BAIL APPLICATION (BA) 344 OF 2020

(Sheikh Shanu Sheikh Jabbar..vs.. State, Wardha City Police Station, Wardha)

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

Court's or Judge's orders.

Shri M.N. Ali, counsel for applicant.
Shri B.M. Lonare, APP for non-applicant.

CORAM: ROHIT B. DEO, J.

DATE :28.09.2020.

Hearing was conducted through video conferencing and the learned counsel agreed that the audio and visual quality was proper.

2. The applicant is seeking bail in Crime 1590/2020 registered with Wardha City Police Station, Wardha for offence punishable under sections 395, 397, 427 of the Indian Penal Code, sections 4/25 of the Arms Act and sections 3(1)(ii), 3(2), 3(4) of the Maharashtra Control of Organized Crime Act. ("MCOC Act").

3. The submission of the learned counsel for the applicant Shri M.N. Ali is that the applicant is entitled to bail on the principle of parity. Shri M.N. Ali submits that three co-accused namely Aslam, Waris and Sohail are released on bail by the Special Court and there is no reason why similar discretion was not exercised in favour of the applicant.

4. The submission that principle of parity can be invoked, merits outright rejection. I have perused the bail orders placed on record. The Special Court granted bail to Aslam noting that he is not named in the First Information Report nor in the 164 Cr.P.C. statement of the informant. The Special Court further noted that Aslam has never been chargesheeted along with the gang leader or other co-accused and that there is no material to suggest that he is a member of organized crime syndicate.

5. Similarly, the other co-accused Sohail is not named in the First Information Report. It is further observed that there is no material on record to show that Sohail was a member of the organized crime syndicate. Waris is released on bail with the observation that no specific role is attributed to him in the charge-sheet and that he has no criminal antecedents. It is further observed that there is no material to link Waris with the crime syndicate. In so far as the applicant is concerned, he is specifically named in the First Information Report and is attributed the dominant role in the crime. According to the first informant Swapnil, which version is supported by the confessional statement recorded under section 18 of the MCOC Act of co-accused Aslam, it was the applicant Sheikh Shanu, who not only assaulted the first informant, but who removed the cash from the counter. Weapons used in the assault including sword are recovered at the instance of the

applicant Sheikh Shanu pursuant to section 27 of the Indian evidence Act memorandum.

6. The submission that the applicant be granted bail on the principle of parity is rightly rejected by the Special Judge, who took note of the crime chart and observed that the applicant is the gang leader and has formed organized crime syndicate. The learned Special Judge has considered the role of the accused and in paragraphs 14 and 15 recorded cogent reasons to held that the principle of party cannot be invoked. I entirely agree with the said view.

7. Considering the provisions of section 21(4) of the MCOC Act, the applicant is not entitled to bail.

8. The application is rejected.

Judge