

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

CRIMINAL APPLICATION (BA) NO.313/2022

Shaikh Albaksh Shaikh Mannan

...Versus...

State of Maharashtra Through Police Station Officer, Police Station Barshi Takli,
District Akola

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

Court's or Judge's orders

Shri PR. Agrawal, Advocate for applicant
Shri Amit Chutke, APP for non-applicant/State

CORAM : AVINASH G. GHAROTE, J.

DATE : 25/04/2022

1. Heard Shri Agrawal, learned Counsel for the applicant and Shri Chutke, learned Additional Public Prosecutor the non-applicant/State.
2. The applicant is arraigned for the offence punishable under Sections 307, 324, 326, 143, 147, 148, 149 and 188 of Indian Penal Code and Section 3/25 and 4/25 of the Arms Act. The incident is dated 24/05/2021. The applicant has been arrested on 25/05/2021. The charge-sheet has been filed on 20/08/2021.
3. Shri Agrawal, learned Counsel for the applicant by inviting my attention to the order dated 13/04/2022,

passed in Criminal Application (BA) No.233/2022, by which co-accused i.e. accused no.6 has been released on bail, submits that the role of the present applicant/accused no.3 was similar to that of the accused no.6, who has already been released on bail, considering which, on that ground alone the applicant is entitled for bail.

4. Shri Chutke, learned Additional Public Prosecutor for the non-applicant/State does not dispute the position that the role attributed to the applicant/accused no.3 was identical to that of accused no.6, who has been already enlarged on bail. He, however, submits that the applicant was present on the spot and therefore, the application be considered in that light.

5. The charge-sheet indicates that the name of the applicant was not included in the FIR and came to be included on the basis of the statement of Abdul Raheman Abdul Rahim (pg.122), Mohd. Irfan Abdul Rahim (pg.123) and Abdul Imran Abdul Rahim (pg.124) on the ground that the applicant along with three persons were caught by the residents of the locality when they were running away from the spot of the incident and were kept in a shed, from which the police have arrested them. The applicant has not been attributed any role in the incident nor anything has been recovered from the applicant. Even the injured Sk. Nadim Sk. Munir (pg.116) does not

indicate the name of the applicant, considering which, it is apparent that the role which is attributed to the applicant is similar to that of accused no.6, who has already been enlarged on bail and therefore, I see no reason to continue the further incarceration of the applicant. Hence, the following order.

ORDER

(i) The Criminal Application is allowed. The applicant/Shaiikh Albaksh Shaiikh Mannan be released on bail in Crime No.306/2021 for the offence punishable under Sections 307, 324, 326, 143, 147, 148, 149 and 188 of Indian Penal Code and Section 3/25 and 4/25 of the Arms Act, registered with Police Station Barshitakli, Tq. Barshitakli, District Akola, on his furnishing PR. Bond in the sum of Rs.1,00,000/- (Rupees One Lakh Only) with two solvent sureties of the like amount.

(ii) The applicant shall not tamper with the evidence of the prosecution witnesses in any manner or try to influence them directly or indirectly.

(iii) The applicant shall attend each and every date before the learned Sessions Court and shall ensure that the trial is not protracted on his behest.

(iv) The applicant shall not enter the jurisdiction of Police Station Barshitakli, till the trial is over.

(v) The applicant shall intimate his residential address and mobile number to the Investigating Officer as well as the concerned Court and shall always keep them updated in case there is a change.

(vi) Violation of any of the above conditions, shall result in cancellation of bail.

(AVINASH G. GHAROTE, J.)

Wadkar