

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

CRIMINAL APPLICATION (ABA) NO.474 OF 2022

Mohammad Ismail Yusuf Sheikh

Versus

State of Maharashtra, through P.S.O., P.S. Rajura, Tah. & Dist. Chandrapur

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

Court's or Judge's Order

Shri R.M. Tahaliyani, Advocate for the applicant.

Ms Shamsi Haider, A.P.P. for the non-applicant/State.

CORAM : ANIL S. KILOR, J.

DATED : 22/07/2022

1. The applicant is seeking pre-arrest bail in Crime No.100 of 2022, dated 02.03.2022, registered with Police Station Rajura, District: Chandrapur, for the offences punishable under Sections 332, 353, 394 and 504 read with Section 34 of the Indian Penal Code.

2. Shri Tahaliyani, learned counsel for the applicant submits that the applicant has been falsely implicated in the alleged offence. For the reason that the applicant's name is Mohammad Ismail Yusuf Sheikh whereas, the name mentioned in the First Information Report (FIR) is Nawab Sheikh. He submits that both the persons are different despite the same, the applicant is being unnecessarily harassed.

3. Shri Tahaliyani, learned counsel for the applicant submits that he attended the Police Station on eight occasions and thereafter, he was not called by the Police, which shows that further custodial interrogation is not necessary. Accordingly, he prays for grant of pre-arrest bail.

4. On the other hand, Ms Shamsi Haider, learned APP points out from the Case Diary that the Investigation Officer has collected incriminating material during the investigation, which shows the involvement of the applicant in the alleged offence.

5. She further points out that in the area where the applicant stays, he is known as Nawab Sheikh therefore, it is submitted that the person Nawab Sheikh and the present applicant both are one and the same.

6. It is further submitted that during the course of investigation, CDR and SDR of the present applicant was collected which show that the location of the present applicant at the time of occurrence of the incident was at and near the place of the incident.

7. Shri Tahaliyani, learned counsel for the applicant disputed the said fact about the location of the applicant and he tried to point out from some photographs

that his location at the relevant time was some kilometre away from the spot of incident.

8. Ms Shamsi Haider, learned APP further points out that though he attended the Police Station. However, during the inquiry, he gave evasive reply and as the purpose of his attendance does not fulfill, later he was not called by the Police. However, his custodial interrogation is necessary. Accordingly, she prays for rejection of the present application.

9. I have perused the Case Diary and First Information Report (FIR).

10. From the Case Diary, it shows that the Investigation Officer (IO) has collected CDR and SDR. According to the prosecution, the said CDR and SDR shows that the location of the applicant was at or near the place of occurrence.

11. The learned APP has made a statement that the applicant is not cooperating the IO in investigation by giving evasive reply and therefore, his custody is necessary.

12. Considering the nature and seriousness of the offence and evidence collected by the IO during the

investigation, I am of the opinion that the custodial interrogation of the applicant is necessary.

13. As far as the arguments made by the learned counsel for the applicant that the applicant's name is Mohammad Ismail Yusuf Sheikh and not Nawab Sheikh or about the location, these are the a matter of the trial. Thus at this stage, I do not want to make any comments on the same as *prima facie* there is a material to show that the applicant is also known as Nawab Sheikh and his location as per the CDR and SDR was at or near the spot of the incident. Accordingly, I pass the following order:

The criminal application is **rejected**.

[ANIL S. KILOR, J.]