



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

CRIMINAL APPLICATION (BA) NO.508 OF 2025

Sheikh Mohamad Sheikh Afsar

Vs.

State of Maharashtra, through Police Station Officer, Khandala,
District Yavatmal

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

Court's or Judge's orders

Mr. M. N. Ali, Counsel for the applicant.

Ms. M. A. Barabde, APP for non-applicant/State.

CORAM : URMILA JOSHI-PHALKE, J.

DATED : 24/06/2025

1. By this application, the applicant is seeking bail as he came to be arrested on 09/12/2024 in connection with Crime No.491/2024 registered with Police Station Khandala, District Yavatmal for the offences punishable under Section 310(4) of the Bharatiya Nyaya Sanhita, 2023.

2. Learned Counsel for the applicant submitted that the crime is registered against the present applicant and other co-accused as during patrolling, the applicant and other co-accused were found along with the weapon, and therefore, it is alleged that they were attempting to commit dacoity and preparing for the same. The police team has apprehended the applicant and his five associates and seized the aforesaid articles. On the basis of the

said report, police have registered the crime against the present applicant. He submitted that now time and again the Hon'ble Apex Court has considered this aspect and held that merely because some persons are found along with some weapons is not sufficient to show that they were assembled for the purpose of committing dacoity and for making preparation to accomplish that object. He submitted that merely because the applicant is found along with the co-accused in possession of the weapon is not sufficient to infer his involvement. In view of that, the applicant be released on bail.

3. Learned APP strongly opposed the said application on the ground that considering the involvement of the present applicant in the present crime and initially also he was involved in the similar type of the offence, moreover, he was found along with the weapon and apprehended at the spot of incident, therefore, the application deserves to be rejected.

4. On hearing both sides and on perusal of the investigation papers, it reveals that while patrolling duty, the police have apprehended the present applicant and other co-accused as they were found along with the weapons. As observed by the Hon'ble Apex Court in the case of **Chaturi Yadav and ors. Vs. State of Bihar [1979 STPL (LE-Crim) 170003 SC]** that mere assembling of the

persons along with the weapons is not sufficient to held that they were making preparations for committing the dacoity. There should be other evidence to support the charge under Section 399 and 402 of the IPC.

5. In view of the observation of the Hon'ble Apex Court, the applicant has made out a case for grant of bail. Accordingly, I proceed to pass following order:

ORDER

(i) The application is allowed.

(ii) The applicant – **Sheikh Mohamad Sheikh Afsar** in connection with Crime No.491/2024 registered with Police Station Khandala, District Yavatmal for the offence punishable under Section 310(4) of the Bharatiya Nyaya Sanhita, 2023, be released on bail on executing P.R. Bond in the sum of Rs.25,000/- with one solvent surety in the like amount.

(iii) The applicant shall attend the concerned Police Station twice in a month i.e. 1st and 15th day of every month, till culmination of the trial and the Police Officer shall record his presence.

(iv) The applicant shall not induce, threat or promise any witnesses who are acquainted with the facts of the case.

(v) The applicant shall not indulge in similar type of the activities. On registration of the single offence of the similar nature against the

(4)

926.ba.508.2025

present applicant would lead to the
cancellation of bail.

The application stands disposed of.

(URMILA JOSHI-PHALKE, J.)

Sarkate