

MHNS070004192022



The State of Maharashtra

Vs.

Shaikh Mustakim @ Papa Shaikh Moiuddin (A-20)

ORDER BELOW Exh.120
(Passed on 07/11/2024)

1. This is an application under Section 483 of the Bhartiya Nagrik Suraksha Sanhita, 2023,(Old Section 439 of the Code of Criminal Procedure, 1973) for grant of regular bail to the applicant-accused who is charge-sheeted in connection with C. R. No.76/2021 registered at Ayeshanagar Police Station, Malegaon for the offence p/u/s 353, 332, 395, 143, 145, 146, 147, 149, 427 r. w. 34 of the Indian Penal Code, and Section 3 of the Prevention of Defacement of Property Act, 1995 and Section 37(1)(3) p/u/s 135 of Maharashtra Police Act.

2. Ld. APP for the State opposed the application by filing written say of I.O. at Exh.123.

3. Heard, Shri. A.N. Shaikh, Ld. advocate for the applicant-accused and Shri. S. K. Sonawane, Ld. APP for the State/Respondent. Both argued vehemently.

4. Ld. Advocate for the applicant-accused submitted as under :-

In connection with the said crime, the applicant-accused is arrested on 24/10/2024 and after sufficient police custody he is remanded in MCR on 25/10/2024. Already charge-sheet is filed and co-accused have been released on bail. Therefore, on the ground of

parity the applicant-accused is praying for regular bail. The applicant-accused has not committed alleged offence. None of the witness has stated anything against him. No purpose would be served in keeping the applicant-accused behind the bars as it will take time for the commencement of the trial and its conclusion. The applicant-accused is having permanent resident. He has no criminal antecedents. Offences alleged are not punishable with death or imprisonment of life. The applicant-accused is ready to co-operate the I.O. for further investigation, if any. He is ready to abide all terms and conditions of bail. Therefore, regular bail be granted to the applicant-accused.

5. On the other hand Ld. APP for the State submitted as under:-

The applicant-accused and other accused violated the order of the District Collector and pelted stones on the Government servants and the Government property and caused damage. Further accused damaged shops and took out cash amount from the counter. They also caused damaged to the glasses of S.T. Depo building, Television and also damaged the CCTV cameras and stolen some CCTV cameras. The applicant-accused was absconding from three years. If bail is granted to the applicant-accused he will abscond. Further he may pressurize the informant and witnesses. Assembly elections in the State are going to be conducted, therefore if bail is granted the applicant-accused may commit similar kind of offence or more serious offence and question of maintaining law and order situation may rose. Therefore the bail application should be rejected.

6. Admittedly, in connection with above mentioned crime the charge-sheet is filed by police. As the charge-sheet is filed it can be said that the investigation is complete. The applicant-accused is shown as accused no.20. Though in the say of I.O. it is written that the applicant-accused was absconding, nothing is produce to show that Police tried to search him and he was avoiding his arrest. Nothing is produced to show that any proclamation is issued by the Court against the applicant-accused in connection with the present crime. Most of the co-accused have been granted regular bail. Nothing remained to be recovered or seized from the applicant-accused.

7. It is settled law that bail is rule and jail is exception. The applicant-accused is having permanent residence. He is ready to abide all conditions of bail. In the FIR and statements of witnesses no specific allegation is there against applicant-accused. Nothing is produced to show that the applicant-accused is having criminal antecedents and/or he has been convicted for any of the offence. The applicant-accused is in Jail since 25/10/2024. No purpose would be served in keeping him behind the bars. In view of this and also considering the objections raised by the Ld. APP for the State, it can be said that the applicant-accused is entitled for regular bail on certain conditions. As such, the application is to be allowed by imposing certain conditions. Hence, I pass following order.

ORDER

Application Exh. 120 is allowed as under :-

1. Applicant-accused i.e. accused no.20 namely Shaikh Mustakim @ Papa Shaikh Moinuddin R/o. Malegaon, Tal. Malegaon, Dist. Nashik, who is in magisterial custody in connection with C.R.No.76/2021 registered at Ayeshanagar Police Station,

Malegaon for the offence p/u/s 353, 332, 395, 143, 145, 146, 147, 149, 427 r. w. 34 of the Indian Penal Code, Section of Prevention of Defacement of Property Act, 1995 and Section 37(1)(3) p/u/s 135 of Maharashtra Police Act, be released on bail on his executing P. R. bond of Rs.30,000/- (Rs. Thirty Thousand) with solvent surety/sureties of the like amount and on following terms and conditions :-

- i) The accused shall remain present at any place as and when called by the I.O. for the purpose of further investigation, if any.
 - ii) The accused shall produce any document/documents, article/articles, mobile phone, and sim card numbers, etc. which may be required by the I.O. for the purpose of further investigation, if any.
 - iii) The accused no.20 shall not directly or indirectly, make any inducement, threat or promise to any person acquainted with facts of accusation, so as to dissuade them from disclosing such facts to the Court or to any Police Officer.
 - iv) The accused no.20, after his release from the Jail, shall attend the concerned Police Station on every Sunday between 11.00 a.m. to 01.00 p.m. for the period of 60 days from the date of his release from the Jail.
 - v) The accused shall not commit any offence in future.
 - vi) The accused shall not tamper with the prosecution witnesses and evidence in any manner.
2. The accused shall furnish his detail address and temporary address alongwith the Photo ID.
 3. The accused shall furnish names and detail address and mobile phone numbers of his three close/blood relatives.
 4. If there is change in the address of accused, he shall inform about it to the concerned Court and Police Station.
 5. The accused to submit his Passport, if any, to the concerned Police Station within 15 days of his release from the jail.
 6. Inform accordingly, to the D.G.P./PP and Police Station Officer of concerned Police Station.

(Soft copy of this bail order be sent to the concerned Jail Authority through E-mail for providing its copy to the said accused.)

Date- 07/11/2024.
Malegaon.

(K. R. Patil)
Addl. Sessions Judge, Malegaon.
Dist. Nashik.