

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

BAIL APPLICATION NO.153 OF 2018

(Kishor Sidharth Lokhande & ors. Vs. The State of
Maharashtra)

WITH

BAIL APPLICATION NO.154 OF 2018

(Vijay @ Bala Sarang Pawar @ Vijay Prabhakar Pawar
Vs. The State of Maharashtra)

WITH

BAIL APPLICATION NO.185 OF 2018

(Akash Sunil Sapkale & ors. Vs. The State of
Maharashtra)

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Mr. S.G.Magre, Mr. S.S.Randive, Advocate for Applicants
Mr. V.M.Kagne, APP for Respondent-State

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CORAM : MANGESH S. PATIL, J.

DATED : 28th February 2018.

PER COURT :-

These are the applications by several accused for
bail under Section 439 of the Cr.P.C. from Crime No.2 of
2018 registered with Bhusawal Bazar Peth Police
Station, District Jalgaon for the offences punishable
under Sections 307, 353, 143, 147, 148, 149, 336, 337,
323, 440, 427 of the Indian Penal Code as also for the

offence punishable under Section 3(2)E of Prevention of Damage of Public Property Act, 1984.

2. Prosecution case as can be made out from the police papers is to the effect that a particular Section of the community was perceiving that injustice was being caused to them and their voice was being suppressed. To ventilate their recentment a mob of around 200 to 300 persons had drawn to the roads in the town of Bhusawal. It is alleged that 20 to 25 persons from the mob started pelting stones on the bus of Maharashtra State Road Transport Corporation which was being driven by the informant / driver. By pelting stones and with rods the bus was damaged. Window panes were smashed, causing injuries to some of the passengers. Since the police reached there the assailants fled from the spot. The FIR was lodged. The offence was registered. The applicants were arrested by suspecting that they were from amongst the group of assailants. They were arrested on 04.01.2018.

3. The learned advocates for the applicants submit

that the applicants have been arrested on mere suspicion. Nobody has seen them pelting stones or damaging the bus. No T.I. Parade has been held. They have been in jail for almost two months. They are not likely to jump the bail and would co-operate the Investigating Officer and they may be released on bail with usual terms and conditions.

4. The learned APP opposes all these applications. He submits that investigation is not yet complete. If the applicants are released on bail there is every likelihood of they tampering the witnesses and creating obstacles in completing the investigation. They have been implicated on the basis of the C.C.T.V. footage and they may not be released on bail.

5. I have carefully gone through the report submitted by the Investigating Officer to the learned APP and the papers of the investigation with the able assistance of the learned APP.

6. It is apparent that the driver / informant and the passengers were not knowing any of the assailants.

Admittedly no T.I. Parade has been held till date. The Investigating Officer even has not mentioned that he intends to undertake any such exercise. There are statements of couple of witnesses from the police department to say that they personally knew some of the applicants / accused and the rest have been identified with the help of C.C.T.V. footage. However, apart from the fact that the C.C.T.V. footage is not available for being seen, conspicuously even the witnesses have not specifically mentioned that the C.C.T.V. footage shows that the applicants / accused could be seen therein pelting stones and damaging the property. There are couple of injury certificates showing that the persons named therein who were travelling in the bus had sustained head injuries. However, the injuries are apparently minor and there is no opinion of any doctor showing that the injuries could have been fatal. In the absence of any such material, at this juncture, there is every room to believe that the applicants are being implicated on mere suspicion.

7. Considering the fact that the applicants have been in jail for sufficient period enabling the Investigating Officer to have their custodial interrogation and there being no justifiable reason to allow their further detention, the applicants deserve to be released on bail subject to the terms and conditions as would allay the concern of the prosecution. Hence, I pass the following order :

ORDER

- (i) The applications are allowed.
- (ii) The applicants be released on bail on their executing a P.R. Bond for Rs.15,000/- each and furnishing a solvent surety in the like amount each subject to the following conditions :
 - (a) They shall attend the concerned Police Station as and when required by the Investigating Officer in exercise of the powers under Section 160 of the Cr.P.C.
 - (b) They shall not tamper the evidence.
- (iii) Bail before the trial court.

- (iv) It is made clear that the observations made herein above are confined to the decision of this application and the learned Trial Judge shall not feel influenced by them.

(MANGESH S. PATIL, J.)

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vmk/-