

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

BAIL APPLICATION NO.28 OF 2018

(Ashok Bhausahab Wahul & ors. Vs. The State of
Maharashtra)

...
Mr. P.M.Gaikwad, Advocate for Applicants
Mr. V.M.Kagne, APP for Respondent-State
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CORAM : MANGESH S. PATIL, J.
DATED : 6th February, 2018.

PER COURT :-

. This is an application for bail under Section 439 of the Cr.P.C. by three of the accused from Crime No.3 of 2018 registered with M.I.D.C. Waluj Police Station, District Aurangabad, for the offences punishable under Sections 143, 147, 148, 149, 353, 332, 333, 336, 337, 307, 427, 294 of the Indian Penal Code, for the offence punishable under Section 135 of the Maharashtra Police Act, as also for the offences punishable under Section 3, 4, 7 of the Prevention of Damage to Public Property Act.

2. The prosecution case is that a mob of around 200 to 300 persons had gathered in Ranjangaon She.Pu. at

4.30 p.m. of 01.01.2018. The members of mob were carrying sticks and iron rods. It was informed that they were forcibly closing the shops. The informant Mr. Sabale who is a P.I. appointed at M.I.D.C. Waluj Police Station along with the other police reached the spot. They tried to pacify the mob. But the mob started pelting stones and damaging the shops and vehicles. Even the police vehicles were attacked. Some Police Officers and constables sustained injuries. Additional force was procured and the mob was dispursed. The applicants were nabbed at the spot from amongst the mob and then the FIR was lodged.

3. The learned Advocate for the applicants submits that the applicants have been falsely implicated, they are innocent and they were not the members of the mob. No specific role is attributable to any of them. The other accused have been released on bail. Infact though the prosecution has been saying that they were accosted at the spot, in the remand report the date of their arrest has been shown as 03.01.2018. Nothing is

to be recovered from them. They are ready to co-operate the Investigating officer and they may be released on bail.

4. The learned APP opposes the application. He submits that the offence is against public peace and property. The applicants have been nabbed at the spot. There are witnesses who have all stated about involvement of the applicants in commission of the crime. Couple of officers have been injured in the incident. The investigation is not yet complete. The applicant may not co-operate during the investigation and may not be released on bail.

5. It is apparent that the FIR specifically names the applicants and further mentions about they having been accosted on the spot from amongst the mob. However, conspicuously the remand papers reveal that they were arrested on 03.01.2018, which is clearly inconsistent with the statements in the FIR as also the statements of the witnesses who have named them. It is also not clear as to how these witnesses came to know their names.

6. Be that as it may, there are no specific allegations or overtact attributed to the applicants in the FIR. It has been mentioned about they having been nabbed from amongst the mob, which was fleeing from the spot and which had pelted stones. There is no witness who has actually seen the applicants pelting stones. Nothing is to be recovered or discovered. The rest of the accused have been released on bail. There is no reason why the applicant should not be released on bail by taking necessary precaution to allay the fear of tampering or non co-operation. Hence, I pass the following order :

ORDER

- (i) The application is allowed.
- (ii) The applicants be released on bail on their executing a P.R. Bond of Rs.15,000/- and furnishing a solvent surety in the like amount subject to the following conditions :
 - (a) They shall attend the concerned Police Station on every first Friday of a month between 10.00 to 11.00 a.m. for next three months or till filing of the charge-sheet

whichever is earlier.

- (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/-