

MHNS070015382023

Cri. Bail Appln. No.624 of 2023



1. Shaikh Anees Shaikh Basheer
@ Anees Khajurwala,
 2. Shaikh Ameen Shaikh Rasheed,
 3. Shaikh Arshad Shaikh Rasheed,
 4. Shaikh Tauseef Shaikh Shakeel,
 5. Shaikh Zahiruddin
Shaikh Najmuddin.
- Vs
State Of Maharashtra

ORDER BELOW Exh. No.1
(Passed on 11/09/2023)

1] This is an application under Section 438 of the Code of Criminal Procedure, 1973 for grant of anticipatory bail to applicants-accused in C. R. No.146 of 2023 registered at Azadnagar Police Station, Malegaon, for the offence p/u/s 324, 143, 144, 147, 148, 149, 504 of the Indian Penal Code and 4/25 of the Indian Arms Act.

2] Ld. APP appeared for respondent/State and opposed the application by filing written say of I.O. at Exh.7.

3] Heard, Shri. A. A. Khan, Ld. advocate for applicants-accused, Shri. S.K. Sonawane, Ld. APP for the State. Both argued vehemently.

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

Informant lodged report alleging that incident took place on 31.07.2023. As the said crime is registered, the applicants-accused are apprehending their arrest. In fact, the applicants-accused have not committed the alleged offence. They are falsely implicated. Names of all family members are stated in the FIR. Person against whom allegations of assault by Koyata are made is already arrested. There is no direct or

indirect evidence against applicants-accused showing their involvement in alleged crime. Sections of Arms Act could not be attracted to applicants-accused. There are cross complaints. Applicants-accused belongs to respectful family. They are ready to abide all conditions of bail. They have permanent residence. They will not abscond. They are not having criminal antecedents. Therefore, anticipatory bail be granted to the applicants-accused.

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

Co-accused and applicants-accused formed an unlawful assembly and committed the said offences by using wooden rod and accused Shaikh Majhar Shaikh Rashid caused injury on head, back and stomach of informant. One of the accused shown sword and threatened that he would kill two or three persons. The applicants-accused are absconding since the commission of offence. The CCTV footage shows the involvement of applicants-accused in creating terror in the locality. C. R. No.151/2023 is registered against accused Shaikh Jahiruddin Shaikh Najaruddin for the offence p/u/s 376 of I. P. C. Offences committed are serious. If anticipatory bail is granted, the applicants-accused may commit more serious offence and they will pressurized the informant and witnesses. Therefore, their application for anticipatory bail should be rejected.

6] After going through the application, say of the I.O. filed through the Ld. APP for the State/Respondent and copy of FIR and other police papers, submitted for perusal, it appears that C. R. No.146 of 2023 is registered against applicants-accused and others at Azadnagar Police Station, Malegaon, for the offence p/u/s 324, 143, 144, 147, 148, 149, 504 of the Indian Penal Code and 4/25 of the Indian Arms Act.

7] After going through the contents of FIR, prima facie it can be said that FIR is registered on 01.08.2023 at 06.49 hours. As per FIR, the alleged incident took place on 31.07.2023 at about 10.00 p.m. It is alleged that informant and his wife were in the house and at about 10.15 p.m., someone knocked the door of house, therefore, informant saw in the CCTV, at that time he saw that accused Majhar Shaikh Rasheed Haji was possessing sickle in his hand and he was abusing by knocking the door. It is stated in the FIR that wife of informant told about this incident to her sons on phone and called them, therefore, sons of informant came and some persons in the lane disclosed about the incident to them.

8] In the FIR, it is further alleged that when informant, his family members and some persons were standing on the road, applicants-accused and other accused came there and accused Bhora Shaikh Jajimuddin assaulted son of informant by means of sickle on right hand palm. It is alleged that other accused started pelting stones. Accused Jahiraji Najimuddin threw one stone which hit on the right side chest of the informant. Brother of informant also sustained injury due to stone. Others also sustained injuries in the said incident. In the FIR it is stated that there were 10 to 15 persons who assaulted by means of stones.

9] I have gone through the police papers. Prima facie it can be said that police visited the spot and drawn the spot panchanama. Police also collected necessary documents. As per remand report, it appears that accused Shaikh Majhar Shaikh Rasheed, Shaikh Kashid Shaikh Rasheed and Rahimuddin Shaikh Najimuddin @ Bhura were arrested and alleged weapons are seized by police. After considering the police papers, it can be said that practically the investigation is complete. In the FIR allegations against applicants-accused are general allegations.

Accused against whom there are specific allegations are already arrested by police. Considering the role attributed to the applicants-accused, it can be said that their custodial interrogation is not necessary. The applicants-accused are having permanent residence. Nothing is produced to show that the applicants-accused are having criminal antecedents and they have been convicted for any offence.

10] The applicants-accused are ready to co-operate the I.O. for further investigation, if any. They are ready to abide all conditions of bail. So far as objections raised by the Ld. APP for the State are concern, considering the nature of offence and allegations against the applicants-accused, it can be said that care of it can be taken by imposing certain conditions on the applicants-accused. Therefore, the applicants-accused are entitled for anticipatory bail on certain conditions. Hence, I pass the following order.

ORDER

The application is allowed as under :-

1. In the event of arrest of applicants-accused namely 1) 1. Shaikh Anees Shaikh Basheer @ Anees Khajurwala, 2) Shaikh Ameen Shaikh Rasheed, 3) Shaikh Arshad Shaikh Rasheed, 4) Shaikh Tauseef Shaikh Shakeel and 5) Shaikh Zahiruddin Shaikh Najmuddin, all R/o. Malegaon, Dist. Nashik, in connection with C. R. No.146 of 2023 registered at Azadnagar Police Station, Malegaon, for the offence p/u/s 324, 143, 144, 147, 148, 149, 504 of the Indian Penal Code and 4/25 of the Indian Arms Act, they shall be released on bail on their executing P. R. bond of Rs.30,000/- (Rs. Thirty thousand) each with surety/sureties of the like amount and on following terms and conditions :-

- i. The applicants-accused shall remain present at any place as and when called by the I.O. for the purpose of further investigation.
- ii. The applicants-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 applicants-accused 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 applicants-accused shall not commit similar kind of offence in future.
- v. The applicants-accused shall not tamper with the prosecution witnesses and evidence in any manner.
- 2. The applicants-accused shall furnish their detail address and temporary address alongwith their Photo ID.
- 3. The applicants-accused shall furnish names and detail address and mobile phone numbers of their three close/blood relatives.
- 4. If there is change in the address of applicants-accused, they shall inform about it to the concerned Court and Police Station.
- 5. The applicants-accused to submit their Passport, if any, to the concerned Police Station within 10 days from today.
- 6. Inform accordingly, to the D.G.P./PP and Police Officer of concerned Police Station.

Date- 11/09/2023.
Malegaon.

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