

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL BAIL APPLICATION NO. 131 OF 2016

Faiyyaz Taimur Shaikh @ Maniyar ..Applicant

v/s.

The State of Maharashtra. ..Respondents

Mr. Vikas B. Shivarkar for the Applicant
Mr. D.P.Adsul, APP for the Respondent-State.

**CORAM : SMT. ANUJA PRABHUDESSAI, J.
DATED : JANUARY 21, 2016.**

P.C.

1. This is an application for bail filed by the aforesaid applicant who has been arrested in Crime No. 172 of 2015 registered with Vanavadi Police Station for offences punishable under Section 143, 147, 148, 149, 224, 332, 353, 341, 427 of Indian Penal Code r/w. 37(1)(3) of Bombay Police Act and Section 4(25) of Indian Arms Act.

2. The allegations against the applicant are that on 5.7.2015 the applicant, who was a member of an unlawful assembly armed with

deadly weapons had tried to enter the house of one Babita Kalyani. It is alleged that the applicant was apprehended by the police, and that the other members of the unlawful assembly had tried to rescue him from the police custody. It is also submitted that the members of the unlawful assembly had pelted stones on the police personnel and damaged the police vehicle. Pursuant to the FIR lodged by one Machhindra Pandit, the above crime was registered. The applicant was arrested on 5.7.2015. After completion of the investigation, chargesheet has been filed before the JMFC, Vanavadi, Pune. It is stated that the case is not yet committed. The applicant had filed an application for bail before the Sessions Court, Pune, and the same was rejected by the learned Sessions Judge by order dated 23.12.2015. Hence the present application.

3. Shri Shivarkar, the learned Counsel for the applicant has submitted that the applicant is not involved in committing the offence as alleged. He has submitted that the main accused who were involved in pelting stones on the police officers and who had tried to rescue the applicant are already released on bail. He has submitted that the investigation is completed and that the presence

of the applicant is no longer required in the custody.

4. The learned APP submits that the statement of Bapusaheb Khese prima facie reveals that the applicant was armed with a sword. He has further submitted that the offence is of serious nature and the applicant is not entitled for bail.

5. I have perused the records and considered the submissions advanced by the learned Counsel for the applicant and the learned APP for the State. The records prima facie reveal that on 5.7.2015 at about 11 a.m. a meeting was called for by one Sonu Chavan and others to discuss the difficulties faced by the villagers about supply of rationing commodities. The said meeting was to be attended by the MLA. The meeting was scheduled to be held in the temple premises and hence several police personnel were deputed on duty. It is alleged that the MLA had arrived at 2.45 p.m., and while the meeting was in progress, one Siddeshwar Chavan assaulted one Iqbal Sayyed. This incident led to a quarrel between the supporters of said Iqbal Sayyed and the other group. Said Iqbal Sayyed was shifted to the hospital.

6. The complainant had received a call from the control room that

there was a quarrel at Ram Tedki. He was informed that some persons armed with weapons were trying to enter the house of one Babita, mother of Vivkysingh Kalyani. The complainant and the other police personnel went to the place of the incident. It is stated that the applicant and the others tried to run away from the spot on seeing the police party. The applicant was caught, and while he was being taken in the custody, the mob gathered at the place of the incident, pelted stones on the police vehicle and tried to rescue the applicant from the police custody. It is stated that the police had to resort to firing in order to disburse the crowd.

7. Said Babita Kalyani had allegedly identified the applicant as one of the persons who had tried to enter her house with a sword. It may be mentioned here that the statements of the complainant as well as the other police personnel do not prima facie indicate that the applicant was armed with a sword or that they had recovered a sword from his possession. Even otherwise, there is no prima facie material to indicate that the applicant had obstructed the complainant or other police personnel while discharging their duty or that he was involved in causing injury to the police personnel or any

other person. The records reveal that the other persons who were actually involved in pelting stones on the police personnel and causing injury are already released on bail. The applicant is in custody since 5.7.2015 and the chargesheet having been filed before the Magistrate, in my considered view the applicant is not required to be detained in custody.

8. Hence the application is allowed on the following terms and conditions:-

- i) The applicant abovenamed, arrested in Crime No.172 of 2015 of Vanavadi Police Station, be released on furnishing bail bond of Rs.25,000/- (Rupees Twenty-five Thousand Only) with one solvent surety in the like amount to the satisfaction of the learned JMFC, Pune.
- ii) The applicant shall not interfere with the complainant or any of the witnesses, or tamper with the evidence in any manner.
- iii) The applicant shall not leave Pune District till committal of the case before the Sessions Court, Pune.

(ANUJA PRABHUDESSAI, J.)