

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, AT NAGPUR.**

CRIMINAL APPLICATION (BA) NO.647 OF 2015

(Anwar Hussain s/ Haji Ibrahim Hussain Khatri ..vs.. State of Maharashtra, through Anti Terrorist
Squad (Rest of Maharashtra), Nagpur)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

CORAM : Z.A. HAQ, J.
DATED : 14-03-2016

Heard Shri R.S. Akbani, Advocate for the
applicant and Shri S.S. Doifode, Additional Public
Prosecutor for the non-applicant.

2. The applicant is arrested on 28-04-2012 in crime registered for the commission of offences punishable under Sections 153-A of the Indian Penal Code, Sections 10, 13, 16 and 18 of Unlawful Activities (Prevention) Act, 1967.

3. The accusations against the applicant are that he is active member of SIMI (banned organisation) and had hatched criminal conspiracy at Aurangabad and the applicant alongwith Mohd. Abrar @ Ismail s/o Babu Kha, Khalil @ Shakir s/o Yusuf Khalil and Ajhar @ Qureshi @ Khalil were planning terrorist activities. It is alleged that the applicant alongwith his associates indulged in activities of spreading *Jihadi* thoughts by staying clandestinely in the area of Sailani and Chikhli towns. It

is stated that on receiving information, A.T.S. arrested seven persons and at the time of raid Akhil Khilji opened fire because of which A.T.S. was required to fire in retaliation because of it Ajhar @ Qureshi @ Khalil was injured and subsequently succumbed to injuries.

4. Shri S.S. Doifode, Additional Public Prosecutor has relied on the statement of secret witness No.19 in which reference is of the name "Anwar". The learned Additional Public Prosecutor has relied on the statement of secret witness No.34 (wife of the applicant) and statement of secret witness No.42 (elder brother of the applicant), and the statement of secret witness No.41 (Bank employee) which show that the applicant is seen in the CCTV footage and the applicant had withdrawn an amount of Rs.500/- from the A.T.M. at Jalna on 26-03-2012.

5. Shri R.S. Akbani, Advocate for the applicant has submitted that the applicant is driving the four wheeler owned by his elder brother for his livelihood and that the applicant is not involved in any crime earlier. It is admitted that the required permit to ply taxi is not granted for the vehicle owned by elder brother of the applicant. The learned Advocate for the applicant has submitted that the identification parade is not conducted. The non-applicant has not controverted this submission.

6. The secret witness No.19 on whose statement the non-applicant is relying to oppose the application has referred to the name "Anwar" and there is no reference of the name "Anwar Hussain S/o Haji Ibrahim Hussain Khatri" (name of the applicant). It goes unexplained as to why the identification parade is not conducted.

7. Considering the facts on the record, I am of the view that the applicant is entitled to be released on bail, however, with conditions as recorded in the operative part of the order.

8. Hence, the following order:

(i) The applicant having been arrested in Crime No.2/2012 registered by the non-applicant, the applicant be released on bail on furnishing P.R. bond in the sum of Rs.50,000/- (Rs. Fifty Thousand Only) and two solvent sureties in the like amount.

(ii) Out of two solvent sureties, one solvent surety shall be furnished by elder brother of applicant.

(iii) Applicant shall surrender the passport.

If the Passport Authorities have not issued passport in the name of applicant, the applicant and his elder brother shall submit affidavit before the Sessions Court stating that the passport has not been issued by the Passport Authorities in the name of the applicant.

(iv) The applicant shall regularly attend the sessions trial on every date unless exemption is granted by the

Sessions Court.

(v) The applicant shall not leave Indore (Madhya Pradesh) without seeking prior permission from the Sessions Court where the trial is pending.

(vi) The applicant is permitted to leave Indore (Madhya Pradesh) only for two days for the purpose of attending the sessions trial at Nagpur and for two days to attend the sessions trial at Aurangabad.

The application is **allowed** in the above terms.

JUDGE

Pma/Tambaskar.