

**IN THE HIGH COURT AT BOMBAY
APPELLATE SIDE, BENCH AT AURANGABAD**

CRIMINAL APPLICATION NO. 1261 OF 2017

Wasim Muslim Qureshi @ Wasim
Ahmed Shaikh Muslim

....Applicant.

Versus

The State of Maharashtra and Anr.

....Respondents.

Mr. S.S. Kazi, Advocate for applicant.

Mr. R.V. Dasalkar, APP for respondents.

CORAM : T.V. NALAWADE, J.

DATED : 17th March, 2017.

ORDER :

1. The application is filed for relief of anticipatory bail.

Heard both the sides.

2. The crime is registered in Nandurbar City Police Station bearing C.R. No. 49/2016 for the offences punishable under sections 395, 307, 149 etc. of Indian Penal Code and under section 4 r/w. 25 of the Arms Act. It was a communal riot, the riot between the persons of two communities like Hindu and Muslim. The incident took place on 22.3.2016 in the presence of police. When police learnt that there was some disturbance and the information was received at 13.15 hours, they rushed to the

spot at Masjid from Nandurbar. Around 200 to 250 persons of Muslim community and similar number of persons of Hindu community had gathered there and they were armed with , iron rod, sword, stones and they were pelting stones at each other. Some members of the mob dared to attack even police officers with the weapons and some police were injured. Damage was caused to the vehicles of police. The persons from the mob used petrol bomb and threw the petrol bombs at the residential places. Damage was caused to many houses, shops and members of this mob virtually looted the articles from shops and houses. As there were no other things to control the mob, police were required to use hand grenades, C.N. Cells. Somehow police brought the things under the control and on the spot arrested some persons from both the communities. Some persons ran away. F.I.R. was given by one P.S.I. and in the F.I.R., the name of present applicant was given as person, who was present in the mob of Muslim community. The statements of some more constables are there, which were recorded on the next day showing that present applicant was involved in the riot.

3. The learned counsel for applicant submitted that the applicant is Government Servant, he is working as Lab Assistant in the school and he was discharging his duty in the school. He

submitted that there is the record with him to show that he was present in the office and Principal has given letter to him to show that he was discharging the duty throughout the day. The observations made in the order of the Sessions Court show that incident took place when examination of that day was over and so, the applicant was available at the spot of incident. In any case, the *alibi* cannot be considered at this stage and it is required to be proved by the accused.

4. When there are communal riots, the Court is expected to be very strict. Unless strict measures are taken against everybody, who participated in such offences, the things cannot be brought under the control and fear cannot be created in the minds of persons, who get involved in communal riots. This Court holds that it is not a fit case to grant the relief. In such cases, it becomes necessary to investigating agency to ascertain as to who was behind the riot and that can be ascertained only after custodial interrogation. There is allegation of use of weapons and such weapons also need to be recovered. There is allegation that there was virtually looting of valuables by the mob and such articles need to be recovered. For all these things, this Court holds that custodial interrogation is necessary.

5. In the result, the application is rejected. The observations are made for the present purpose only. The learned counsel for applicant requested for giving some interim relief. It is refused.

[T.V. NALAWADE, J.]

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