

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

CRIMINAL APPLICATION NO. 5156 OF 2017

1. Mohammad Liyakat Sayyed
Age: 29 years, Occu.: Labour,

2. Mousinkhan Taslimkhan Pathan
Age: 30 years, Occu.: Labour,

Both R/o Garib Nawaz Colony, Shahada,
Tq. Shahada, Dist. Nandurbar.

..APPLICANTS

VERSUS

State of Maharashtra
Police Station Shahada, Dist. Nandurbar.

..RESPONDENT

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Mr. Zia Ul Mustafa, Advocate for applicants.
Mr. A.S. Shinde, A.P.P. for respondent - State.

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CORAM : V.L. ACHLIYA, J.
DATED : 14th NOVEMBER, 2017

ORDER :

1. The applicants lying arrested in connection with offences u/s 307, 353, 332, 395, 436 of I.P.C. and u/s 37(1)(3) and 135 of Bombay Police Act and u/s 3 and 4 of Prevention of Damage to Public Property Act, 1984 registered vide C.R. No. 269 of 2017 against them with Shahada Police Station, preferred this application to release them on bail.

2. Heard the learned Counsel for the applicants and the learned A.P.P. for the State. Perused the papers of investigation.

3. The learned Counsel for the applicants strenuously contended that the applicants are falsely implicated in the case. He submits that as many as 300 persons are made accused in the case. No overt act is attributed to the applicants in the F.I.R. as well as witnesses whose statements were recorded during the course of investigation. The applicants are lying in jail since 28th August, 2017. The injury received by the injured witnesses were found to be simple in nature. He further submits that investigation is practically complete. The co-accused in the case who were standing on same footing as that applicant have been enlarged on bail by this Court vide order dated 01st September, 2017 and the applicants also deserves to be enlarged on bail on the ground of parity.

4. On the other hand, the learned A.P.P. opposed the application with contentions that the names of the applicants find place in F.I.R. He submits that in the incident, 6-7 police officials sustained injuries and public property worth Rs.12 lakh was destroyed. The applicants have taken part in the incident and attempted to kill the public servants. They have also committed

an act of robbery and setting the house on fire.

5. In order to appreciate the submissions advanced, I have perused the papers of investigation. It reflects that on 14th June, 2017 on account of quarrel that had took place between two groups on petty issue of water tank. One person by name Sayyad Mujaffarali Liyakatali was assaulted by means of sword. While said injured was lying admitted in the hospital, some people went to hospital where the injured was lying admitted and assaulted few other persons. If we consider the role attributed to the applicant, then it confines to their presence on spot and alongwith mob of 200 to 300 persons alleged to be involved in the incident of rioting. No specific role has been attributed to the applicants. The act attributed to them in commission of offence are vague and general in nature. Applicants are lying in jail for more than 2 months. The injury sustained by the injured appears to be simple in nature. Looking to the large number of persons involved in the case, it will take long time to proceed with the case. It is not desirable to keep the applicants behind the bar till conclusion of trial. The investigation is practically over. Therefore, considering the overall facts of the case, role attributed to the applicants and the co-accused who are granted bail by this Court on identical facts, I am inclined to allow the application with certain conditions. Hence the following order :-

ORDER

- (i) Application is allowed.
- (ii) Applicants be released on bail in connection with the offence registered u/s 307, 353, 332, 395, 436 of I.P.C. and u/s 37(1)(3) and 135 of Bombay Police Act and u/s 3 and 4 of Prevention of Damage to Public Property Act, 1984 vide C.R. No. 269 of 2017 with Shahada Police Station on each of them furnishing bail in the sum of Rs.40,000/- with one surety in the like amount on following conditions:-

- (a) The applicants shall attend Shahada Police Station on every Sunday in between 10 a.m. to 11 a.m. till filing of charge-sheet.

- (b) In case charge-sheet is filed against them, the applicants shall continue to attend the Shahada Police Station on the last day of each month till conclusion of trial.

- (c) The applicants shall furnish names, addresses and contact numbers of their three close relatives and friends.

- (d) The applicants shall not tamper with the prosecution witness.
- (e) The applicants shall not indulge into offence of similar in nature.
- (iii) In the event of breach of any of the condition, bail granted to the applicants shall liable to be canceled.
- (iv) Bail to be furnished before the trial Court.
- (v) Application stands disposed off in view of the above.

(V. L. ACHLIYA, J.)

SSD