

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL APPLICATION (ABA) NO. 73 OF 2017.

(SHAHEZAD KHAN S/O SALILM KHAN...VS.. STATE OF MAH. THR. P.S.O. PS MALKAPUR CITY,
DISTT.BULDHANA)

WITH

CRIMINAL APPLICATION (ABA) NO. 108 OF 2017.

(MOHD. DANISH S/O ABDUL RASHID...VS.. STATE OF MAH. THR. P.S.O. PS MALKAPUR CITY,
DISTT.BULDHANA)

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

Court's or Judge's orders

Shri Parvez W. Mirza, Advocate for Applicant.
Shri N. R. Patil, A.P.P. for Non-applicant.

CORAM : Z.A.HAQ, J.

DATED : 4th JULY , 2017.

These applications are disposed of by common orders as the applicants in both these applications seek pre-arrest bail in connection with crime registered against them for the offences punishable under Sections 307, 147, 148, 149, 353, 332, 333, 435, 427, 109 of the Indian Penal Code, Sections 3 and 4 of the Prevention of Damages to Public Property Act, Section 4/25 of the Arms Act, Section 7 of the Criminal Law Amendment Act and Section 135 of the Maharashtra Police Act.

The crime is registered on the complaint lodged by Police Inspector, Police Station Malkapur (Rural) that on the day of Eid-E-Milad about 1500 to 2000 young Muslims had taken out procession from the route for which permission was not granted, as according to the administration, the route

passes through area having dense population of Hindus and on earlier occasions there had been law and order problems and the applicants who are active members of a political party led the procession. According to the Investigating Agency, Mohd. Danish (applicant in Criminal Application (ABA) No.108 of 2017) held iron pipe and was instigating the mob to assault the policemen. It is alleged that several policemen suffered injuries and huge loss is caused to the public property.

In the reply filed in Criminal Application (ABA) No.108 of 2017 in paragraph No.3, it is stated that the mob was carrying Pakistan flag. The learned advocate for the applicant has submitted that the allegation is per se false. After examining the case diary, the learned A. P. P. could not find anything on record to substantiate this allegation and therefore, pursis is filed seeking permission to delete the word "Pakistan" from last line on page No.2 of the reply.

The application is opposed on the ground that the applicants are involved in the commission of serious offence and two crimes for similar offences are earlier registered against them. It is argued that the investigation is still in progress and if the applicants are granted protection by this Court, then the investigation will be hampered.

Mohd. Danish (applicant in Criminal Application (ABA) No.108 of 2017) claims to be a businessman and according to him, he is falsely implicated for political reasons. It is submitted that mother of this applicant is in active politics and she had contested the election of Municipal Council.

Shahezad Khan (applicant in Criminal Application (ABA) No.73 of 2017) claims that he is an elected councillor and also claims that he is falsely implicated not only in the present crime but also in the earlier crimes. The applicants claim to be businessmen having deep roots in the society.

This Court has granted interim protection to the applicants by orders passed on 7th February, 2017 and 17th February, 2017 respectively imposing conditions regarding attendance at the Police Station. The Investigating Agency has not made any complaint that the applicants have not co-operated with the Investigating Agency.

Considering the facts of the case, following order is passed:

The order passed by this Court in Criminal Application (ABA) No.73 of 2017 on 7th February, 2017 and the order passed in Criminal Application (ABA) No.108 of 2017 on 17th February, 2017 granting protection to the applicants are confirmed.

The applicants shall not enter Malkapur town till 29th October, 2017, except with prior permission of Superintendent of Police, Buldhana.

Shahezad Khan (applicant in Criminal Application (ABA) No.73 of 2017) claims that he is elected as Councillor and is required to attend the meetings of Municipal Council. This applicant is permitted to attend the meetings of Municipal Council where the presence of this applicant as

Councillor is necessary and for this the prior permission of Superintendent of Police, Buldhana will not be required.

The applications are **allowed** in the above terms.

JUDGE

PBP