

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

BAIL APPLICATION NO.2438 OF 2018

1. Kailash Pandurang Bhoir
2. Mangesh Madhukar Patil
3. Hemant Sakharam Patil
4. Prabhakar Gana Mhatre
5. Sanjay Atmaram Mhatre
6. Rupesh Anant Thakur
7. Jayram Janardan Bhoir
8. Yuvraj Harishchandra Gharat
9. Hareshwar Vasant Patil
10. Satyajit Bhaskar Mhatre
11. Sandip Kesinath Mhatre
12. Prafulla Bhau Gadkari
13. Sanjay Krushna Patil
14. Mananath Kashinath Patil
15. Navnath B. Thakur
16. Amar Arun Patil
17. Mahesh Gangaram Mhatre
18. Ghanshyam Ram Patil
19. Snehal Prakash Thakur

...Applicants

Versus

The State of Maharashtra

...Respondent

.....

Mr. Sachindra B. Shetye i/b. Mr. Irfan A. Shaikh for the Applicants.

Mr. Rajan Salvi, APP for the Respondent-State.

Mr. Aabad Ponda for the Intervenor.

Mr. Atul A. Aher, P.I., Crime, Uran Police Station present.

CORAM : SMT. ANUJA PRABHUDESSAI, J.

DATED: 24th SEPTEMBER, 2018.

P.C.:-

At the outset Mr. Ponda, the learned counsel seeks leave to address the Court on behalf of M/s. APM Terminal Company, who is

also one of the aggrieved parties. The learned counsel for the Applicants has no objection for said intervention, hence, leave is granted.

2. This is an application filed under Section 439 of the Cr.P.C. by the aforesaid Applicants, who have been arrested in Crime No.173 of 2018 registered at Uran Police Station, District-Navi Mumbai, for the offences punishable under Sections 109, 120 B, 143, 146, 147, 323, 324, 332, 337, 341, 352, 353, 427, 504 r/w. 149 of the Indian Penal Code, 1860 and sections 37(1) (3) and 135 of the Bombay Police Act, 1951.

3. Heard Mr. Sachin Shetye, the learned counsel for the Applicants, Mr. Abad Ponda, the learned counsel for the aggrieved party and Mr. Rajan Salvi, the learned APP for the Respondent-State. I have perused the records and considered the submissions advanced by the learned counsels for the respective parties.

4. The aforesaid crime was registered pursuant to the First Information Report lodged by one Shankar Charoskar, Police Naik, deputed with Uran Police Station. The records prima facie reveal that

the Applicants were the employees of the APM Terminal Company. These Applicants and some others have been retrenched by the said Company. The Applicants and the other workers have been agitating over the issue of retrenchment. This necessitated the Company to approach the Division Bench of this Court in Criminal Writ Petition No.3534 of 2018 for seeking police protection so as to facilitate free ingress and egress of the staff and goods from the said Company premises. The order dated 10th August, 2018 passed by the Division Bench of this Court in the said Criminal Writ Petition indicates that the learned Public Prosecutor had made a statement that police protection would be provided to the said Company during day time so as to facilitate entry and removal/exit of goods and personnel from the said Company premises. In the light of the said statement, the writ petition was disposed of.

5. Pursuant to the statement made before the Division Bench of this Court, police protection was provided to the said Company. The FIR prima facie reveals that on 10.9.2018 at about 8.50 a.m. three buses of the Company were proceeding towards the company premises. The first informant was on escort duty on one of the company buses. The first informant has alleged that when they reached at an under

construction bridge, a mob of about 15 to 20 persons including the Applicants herein stopped the said buses and that they pelted stones on the buses, damaged the buses and also caused injuries to the first informant and others. It is further alleged that the first informant had tried to pacify the mob but they did not heed to his request and continued pelting stones. Members of the mob thereafter ran away from the place of the incident.

6. The material on record prima facie reveals that the Applicants and some others, who had been retrenched, had resorted to violence and had caused damage to the property of the Company and had also caused injuries to the first informant and six others. The injuries sustained by the Applicant and others are simple in nature. The Applicants were arrested on 10th /11th September, 2018 and are presently in Magisterial custody. Their presence is no longer required for interrogation or investigation. Furthermore, the offences which are alleged to have been committed by the Applicants are punishable with maximum imprisonment of three years. The Applicants are permanent residents of Uran and hence, there is no possibility of the Applicants absconding or thwarting the course of justice. The above facts and circumstances would justify grant of bail under Section 438 of the

Cr.P.C.

7. At this stage, Mr. Ponda, the learned counsel for the aggrieved party submits that the Applicants have been resorting to violence and have been making provocative speeches. He contends that there is every possibility of the Applicants in resorting to violence and committing similar offences.

8. Mr. Shetye, the learned counsel for the Applicants, under instructions submits that the Applicants are willing to give a written undertaking not to resort to any violence, misuse the liberty and that they will not indulge in similar activities and further that they will not enter the area within a radius of 3 kms. from the said Company premises except to go into their respective houses. He submits that such an undertaking would be filed before the learned J.M.F.C., Uran alongwith the bail bonds. Statement is accepted. This statement sufficiently alleviates the apprehension expressed by the learned Counsel Mr. Ponda.

9. In the light of above, in my considered view, this is a fit case for grant of bail. Hence, the following order:-

- (i) The application is allowed.
- (ii) The Applicants are ordered to be released on bail on furnishing bail bonds of Rs.25,000/- each with one or two solvent sureties in the like amount to the satisfaction of the learned J.M.F.C., Uran.
- (iii) The Applicants shall furnish their permanent as well as temporary address, if any, and their contact details to the Investigation Officer.
- (iv) The Applicants shall not change their residential addresses without prior intimation to the concerned Investigation Officer.
- (v) The Applicants shall report to the Investigation Officer or senior officer of the Uran Police Station on first Monday of every month until further orders.
- (vi) The Applicants shall abide by the undertaking given to the Court.

(SMT. ANUJA PRABHUDESSAI, J.)