

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

27 BAIL APPLICATION NO.1211 OF 2020

1. Alishan Bano Shaikh Kasam Patve,
Age; 56 years, Occ; Household,
R/o; At Lakadkot, Juna Ball Bazar,
Nandurbar.
2. Nushrat Bano Shaikh Salim @ Munna Patve,
Age; 45 years, Occ; Household,
R/o; As above. ...Applicants

VERSUS

The State of Maharashtra,
Through Police Inspector,
Nandurbar City Police Station,
Tq. & Dist. Nandurbar. ...Respondent

...
Advocate for Applicants : Smt. Fatema Kazi h/f Shri. S.S. Kazi.
APP for Respondents-State : Shri P.G. Borade
...

CORAM : M. G. SEWLIKAR, J.

DATE : 29th OCTOBER, 2020.

ORDER :

1. This is an application for seeking regular bail in Cr. No. 807 of 2020, registered in Nandurbar City Police Station, for the offence punishable under Sections 302, 307, 324, 452, 427, 143, 147, 148, 149, 323, 504, 506 of the Indian Penal Code (I.P.C.) and under Sections 37(1)(3) read with Section 135 of the Maharashtra Police Act.

2. Facts giving rise to this application are that on 12.9.2020 at 10.30 p.m., accused Shahrukh Kalim Patve, Naeem Kalim Patve, Sameer Kalim Patve, Altamash Kalim Patve, Mohsin Kalim Patve, Alishan Patve, Najim Kalim Patve, Aattar Shaikh Salman, Munna Isak Patve, Kalim Patve, Sana Firoz Patve, Nushrat Munna Patve assaulted the informant by means of sticks, iron pipes and started pelting stones on the house of the informant Liyakat Shahid Bagwan and started beating his mother Aayeshabi Shahid Bagwan, maternal uncle Harun Yusuf Kureshi and the maternal aunt Sayarabi Harun Kureshi and were dragged out of the house. Witnesses who had come to rescue, were also beaten by the applicants and other accused. The accused Najeem picked up a stone and beat the maternal uncle of the informant by the name of Harun Yusuf Kureshi, owing to which said Harun fell unconscious. The deceased Harun Kureshi was shifted to hospital, where he was declared dead. On these allegations F.I.R. was lodged on 13.9.2020.

3. Heard Smt. Fatema Kazi, the learned counsel for the applicants and Shri P.G. Borade, learned A.P.P. for the respondent-State.

4. Smt. Fatema Kazi, learned counsel for the applicants submitted that only names of the applicants are there in the F.I.R.

They have not been attributed any overt act. Nothing is to be recovered from the applicants, therefore, the applicants deserve to be released on bail.

5. Shri Borade, learned A.P.P. for the respondent-State submitted that the offence is serious in nature. The applicants were members of the unlawful assembly. Despite being aware that the assembly was unlawful, they continued to be the members of the unlawful assembly. Therefore, there is sufficient evidence against the applicants and they cannot be released on bail.

6. On perusal of papers annexed with the application, it is seen that the names of the applicants are mentioned in the F.I.R. However, except this, no role is ascribed to the applicants in the commission of the alleged offence. The F.I.R. does not show that any overt act is attributed to any of the applicants. No recovery is effected from any of the applicants. In this view of the matter, applicants are entitled to be released on bail. Hence the following order is passed :

ORDER

1. Application is allowed.
2. Applicant No. 1) Alishan Bano Shaikh Kasam Patve and No. 2) Nushrat Bano Shaikh Salim@ Munna Patve, be released on P.R. bond of Rs. 25,000/- (Rs

Twenty five Thousand Only) each, with one solvent surety each in the like amount, in Cr. No. 807 of 2020, registered with Nandurbar City Police Station, for the offence punishable under Section 302, 307, 324, 452, 427, 143, 147, 148, 149, 323, 504 and 506 of the Indian Penal Code, and under Section 37 (1) (3) read with Section 135 of the Maharashtra Police Act, on condition that the applicant Nos. 1 & 2 shall attend the concerned Police Station as and when directed.

**(M. G. SEWLIKAR)
JUDGE**

mahajansb/