

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, AT NAGPUR.**

CRIMINAL APPLICATION (ABA) NO. 715 OF 2020

(Shohel Shah s/o Rafique Shah ..vs.. State of Maharashtra, through PSO, PS Shivaji Nagar
Khamgaon)

WITH

CRIMINAL APPLICATION (ABA) NO. 716 OF 2020

(Shaikh Wasim s/o Shaikh Salim ..vs.. State of Maharashtra, through PSO, PS Shivaji Nagar
Khamgaon)

WITH

CRIMINAL APPLICATION (ABA) NO. 726 OF 2020

(Imran Khan s/o Ziyaullah Khan ..vs.. State of Maharashtra, through PSO, PS Shivaji Nagar
Khamgaon)

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

Court's or Judge's orders

Mr. A.B. Mirza, Counsel for the applicants,
Mr. V.A. Thakre, Addl.P.P. for the non-applicant in ABA 715, 716 &
726/20.
Mrs. S.S. Jachak, Addl.P.P. for the non-applicant in ABA 685/2020.

CORAM : ROHIT B. DEO, J.

DATED : 02-12-2020

These applications seeking pre-arrest protection arise from same incident and are, therefore, heard and decided together.

2. The applicants are apprehending arrest in connection with Crime 241/2020 registered with Shivaji Nagar Police Station, Khamgaon for the offences punishable under Sections 143, 145, 147, 149, 188, 269, 270, 332, 336, 337, 353 and 427 of the Indian Penal Code, Section 3 of the Pandemic Act COVID-19, Section 51-b of the Disaster Management Act and Section 7 of the Criminal Amendment Act.

3. The gist of the report lodged by Mr. Manoj Surwade is that when the police squad went to the scene of a communal altercation, a mob attacked the police personnel with stones causing injuries to three police personnel.

4. I have heard the learned Counsel Mr. A.B. Mirza for the applicants and the learned Additional Public Prosecutor Mr. V.A. Thakre for the State and the case diary is perused.

5. The applicant-Sohel Shah in ABA 715/2020 is named in the first information report and the statements of witnesses, as the stone pelter. The applicant-Shaikh Wasim in ABA 716/2020 and the applicant-Imran Khan ABA 726/2020 respectively are not named in the report. The learned Additional Public Prosecutor Mr. V.A. Thakre would submit that the said applicants are, however, named by witnesses who are police officers.

6. In so far as the applicants who are not named in the report is concerned, their participation in the stone pelting is doubtful. The statements of the police personnel are recorded belatedly. The report is lodged on 22-5-2020 and the statements are recorded on 26-5-2020. That apart, if the police personnel knew and identified the said applicants as stone pelters, there is no explanation why they were not named in the first

information report. I am, therefore, inclined to allow ABA 716/2020 and ABA 726/2020 preferred by the applicants-Shaikh Wasim and Imran Khan respectively. In so far as the applicant-Sohel Shah in ABA 715/2020, he is named in the report as well as the statements of the witnesses. I am not inclined to exercise discretion in his favour. Instances of assault on public servants are increasing exponentially. Day in and day out, it is noticed that public servants are targeted, with the intention of preventing them from discharging duty, with impunity. Any indulgence in favour of such persons will be subversive of the rule of law.

7. In the event of arrest in Crime 241/2020 registered with Shivaji Nagar Police Station, Khamgaon for the offences punishable under Sections 143, 145, 147, 149, 188, 269, 270, 332, 336, 337, 353 and 427 of the Indian Penal Code, Section 3 of the Pandemic Act COVID-19, Section 51-b of the Disaster Management Act and Section 7 of the Criminal Amendment Act, the applicant-Shaikh Wasim in ABA 716/2020 and applicant-Imran Khan in ABA 726/2020 shall be released on furnishing personal bond of Rs.25,000/- each with a solvent sure of like amount.

8. The applicants shall attend the Shivaji Nagar Police Station, Khamgaon on 6th, 7th and 8 of December, 2020 from 11-00 a.m. to 3.00 p.m. and shall cooperate

with the Investigating Officer.

9. The applicants shall not, directly or indirectly, make any attempt to influence the witnesses or otherwise tamper with the evidence.

10. The applicants shall not leave the country without the permission of the trial Court.

11. ABA 715/2020 is rejected.

JUDGE

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