

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

ANTICIPATORY BAIL APPLICATION NO. 677 OF 2021

1. Ruksanabi w/o Saleem Shaikh ... **Applicants**
Age 45 years, Occu: Household
R/o Mehtar Colony, Malpur Road,
Dondaicha, Tq. Sindkheda, Dist. Dhule.
2. Shifa w/o Imran Shaikh
R/o Mehtar Colony, Malpur Road,
Dondaicha, Tq. Sindkheda, Dist. Dhule.

VERSUS

- The State of Maharashtra, ... **Respondent**
Through Dondaicha Police Station,
District Dhule

Mr. T. W. Pathan, Advocate for the applicants
Mr. V. M. Kagne, APP for the Respondent-State

WITH

ANTICIPATORY BAIL APPLICATION NO. 546 OF 2021

1. Shaikh Mohsin Shaikh Siraj ... **Applicants**
Age 34 years, Occu: Business
2. Shaikh Nazim Bashir
Age 49 years, Occu: Business
R/o Dondaicha, Tq. Sindkheda,
District Dhule.

VERSUS

1. The State of Maharashtra, ... **Respondents**
Through Police Station Officer,
Dondaicha Police Station, Dondaicha
Tq. Sindkheda, District Dhule
2. The Superintendent of Police, Dhule,
Tq. & District Dhule

Mr Syed Azizoddi K., Advocate for the applicants
Mr. V. M. Kagne, APP for the Respondents-State

CORAM : V. G. BISHT, J.
RESERVED ON : 17th August, 2021.
PRONOUNCED ON : 24th August, 2021

ORDER:

1. Present applications under section 438 of the Code of Criminal Procedure, 1973 are preferred by the applicants seeking grant of pre-arrest bail in connection with Crime No. 48/2021 registered with Dondaicha Police Station, District Dhule for the offences punishable under Sections 307, 353, 332, 333, 225, 143, 145, 147, 149, 269, 270, 271, 504 of the Indian Penal Code, 1860, Sections 37(1)(3), 135 of the Maharashtra Police Act and Sections 2, 3 4 of Epidemic Diseases Act, 1897 and Section 11 of the Maharashtra Covid-19 Rules, 2020.

2. It is the case of the prosecution that on 31.03.2021, the accused Lulya alias Sharif Shaikh Saleem Shaikh and Imran Shaikh Saleem Shaikh were taken into custody in connection with Crime No. 47/2021 registered with Dondaicha Police Station for the offences punishable under sections 354(A)(D), 504, 506, 427 IPC and sections 11, 12 and 18 of the Protection of Children from Sexual Offences Act, 2012. It is alleged that thereafter 19 persons including the the present applicants approached the police station followed by 150 to 200 persons from the Muslim community. They were protesting the arrest of the said accused. They did not listen and started abusing and pelting stones and thereby caused injuries to the police personnel.

3. Mr. T. W. Pathan and Mr. Syed Azizoddin R., learned counsel for the applicants, submit that no specific role has been attributed to the present applicants regarding alleged assault or using criminal force to deter public servants from discharging their duties. So also there is no allegation that alleged assault was with intent to commit murder of any particular police officer. In such circumstances, the applications deserve to be allowed, argued learned counsel.

4. Mr. V. M. Kagne, learned A.P.P., on the other hand, would oppose the submissions by contending that the present applicants alongwith mob of 150 to 200 persons gathered at the police station and started pelting stones. The police personnel were injured. Criminal force so used by the applicants was with a view to deter the public servants from discharging their duties. In such circumstances, no leniency should be shown and the applications are liable to be rejected, argued learned A.P.P.

5. The first information report would show that the present applicants and others had gathered in the police station to protest the the arrest of those accused persons. It is alleged that a mob and as also the present applicants indulged in stone pelting and thereby not only attempted to kill the police personnel but the criminal force so used by them was with a view to deter the public servants from

discharging their duties. It is pertinent to note here that the prosecution has specifically alleged that the present applicants and other accused had attempted to kill the police personnel.

6. I have gone through medical certificates of the injured police personnel shown to me for perusal by the APP. Apart from two persons who had gathered there and sustained grievous injuries, the police personnel namely Police Inspector Dnayaneshwar Ware, Police Head Constable Pramod Tulshiram Chaudhari, Police Constable Sanjay Asaram Chavan and Police Constable Mohan Tulshiram Male sustained simple injuries. Except that there is nothing on record to substantiate the ingredients of section 307 IPC.

7. Having regard to the nature of offences and the role attributed to the present applicants, in my considered opinion, the present applicants have made out a case for bail.

8. In view of above, I am inclined to allow the applications and pass the following order:

O R D E R

In the event of arrest of the applicants in connection with Crime No. 48/2021 registered with Dondaicha Police Station, District Dhule for the offences punishable under Sections 307, 353, 332, 333, 225, 143, 145, 147, 149, 269, 270, 271, 504

of the Indian Penal Code, 1860, Sections 37(1)(3), 135 of the Maharashtra Police Act and under sections 2, 3 4 of Epidemic Diseases Act, 1897 and Section 11 of the Maharashtra Covid-19 Rules, 2020, the applicants are directed to be enlarged on bail on their furnishing P.R. Bond of Rs.20,000/- [Rs. Twenty thousand only] each, with one or two solvent sureties in the like amount.

9. Applications stand disposed of in the aforesaid terms.

(V. G. BISHT, J.)

JPC