

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

ABA NO. 1374 OF 2021
LAKHANSINGH ALIAS LALLYA S/O. BHOLASINGH KHALSA
VERSUS
STATE OF MAHARASHTRA

...
Mr. Rajendra Deshmukh Senior Advocate I/B. Mr. Devang
Deshmukh, Advocate for applicant.
Mr. S.B. Narwade, APP for respondent.

WITH
ABA NO. 1456 OF 2021
AVATARSINGH @ LUCKYSINGH @ LUCKY CHANDASINGH HAKIM
VERSUS
THE STATE OF MAHARASHTRA.

...
Manpreet Granthi Advocate for applicant
Mr. S.B. Narwade, APP for respondent.

...

CORAM : PRAKASH D. NAIK J.

DATE : 14TH DECEMBER, 2021.

PER COURT:

1] The applicants are apprehending arrest in Crime No.114/2021 registered with Vazirabad Police Station, District Nanded for the offences punishable under Sections 353, 307, 120(B), 323, 324, 326, 332, 336, 427, 143, 147, 148, 149, 269, 270, 271, 186, 188, 504, 506 of the Indian Penal Code (for short "I.P.C.") and offences under other Acts.

2] It is alleged that there was Halla Bol function in the premises of Gurudwara at Nanded. Several persons had gathered. The accused removed barricades. They were armed with Swords, lathis etc. The police personnel were assaulted. FIR was lodged against 62 persons

3] Learned Senior Counsel for the applicant in ABA No. 1374 of 2021 submitted that the offences relate to the incident of procession wherein several persons were allegedly involved in assault on police personnel. No specific role is attributed to the applicant. In accordance with Section 173 (8) of the Code of Criminal Procedure investigation was conducted by the police and report was submitted to the Sessions Court which has been annexed to this application stating that supplementary statements of two police constables were recorded during the course of further investigation and they have stated that the applicant was present at Gurudwara. It is, thus, submitted that no overt act of assault is attributed to the applicant is also submitted that the co-accused who were attributed the role, were granted bail by this Court.

4] The learned Advocate for the applicant in ABA No. 1456 of 2021 submitted that the applicant has been falsely implicated. There is no evidence showing his involvement in the crime. The CCTV footage shows that the said applicant was standing at spot. There is no evidence to show that he has participated in the crime.

5] The learned APP submitted that there are statements of the witnesses showing involvement of the applicants in the crime. Subsequently, further investigation was conducted and statement of witnesses was recorded which mentions that applicant Lakhansingh was standing at the place of incident. However, no overt act is attributed to him. The statement recorded also shows the presence and involvement of Avtarsingh @ Luckysingh @ Lucky Chandarsingh Hakim in the offence. However, the CCTV footage shows that he was present. Both the applicants are having criminal antecedents. Two cases under the provisions of Maharashtra Police Act were registered as Crime No. 51 of 2016 and 147 of 2017 against applicant Avtarsingh Hakim and three cases were

registered against Lakhansingh Khalsa. The learned counsel for the applicant in ABA No. 1456 of 2021 submits that in one case against them has resulted in acquittal and the other two cases are related to the same incident.

6] Thus, it is apparent that supplementary statement recorded during further investigation mentions that Lakhansingh Khalsa was present near the place of incident. No overt act is attributed to him having any role in the crime. Although statement of witnesses refer to presence of Avtarsingh Hakim at the place of incident and participation in the protest, the CCTV footage indicate that he was merely present at the scene of offence. In the circumstances, the applications can be allowed.

O R D E R

i] ABA Nos. 1374 of 2021 and 1456 of 2021 are allowed.

ii] In the event of arrest of the applicants in Crime No.114 of 2021, registered with Vajirabad Police station, District Nanded, the applicants be released on executing PR Bond in the sum of Rs. 25,000/- each, with one or more sureties in the like amount.

iii] The applicants shall appear before the I.O. on 20th, 21st, 22nd December, 2021 between 11.00 a.m. to 1.00 P.M. and thereafter as and when called till filing of charge sheet.

Iv] Without prejudice to their defence in the present case it is directed that the applicants shall not commit similar offences.

v] The applications stand disposed of.

**[PRAKASH D. NAIK]
JUDGE**

GRT/-.