

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

ANTICIPATORY BAIL APPLICATION NO.776 OF 2022

Mohammad Muslim Shahshuddoha
@ Muslim Dhande Pahelwan ...Applicant
Vs.
The State of Maharashtra ... Respondent

Mr. Mahendra N. Sandhyanshiv, for the Applicant.
Mrs. J. S. Lohokare, APP for the Respondent-State.

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**CORAM : C.V. BHADANG, J.
DATE : 31 MARCH 2022**

P.C.

. The Applicant, apprehending his arrest, in connection with the investigation of Crime No.75/2021 registered with Malegaon City Police Station, Dist. Nashik under Section 307, 353, 332, 333, 143, 144, 147, 148, 149, 120-B, 427 and 186 of IPC and Section 3 and 4 of the Police (Incitement to Disaffection) Act 1922 and 37(1)(3) punishable under Section 135 of the Maharashtra Police Act and Section 3(2) of the Prevention of Defacement of Property Act, is seeking anticipatory bail.

2. The aforesaid crime is registered on the basis of the complaint dated 12 November 2021 lodged by PI Sureshkumar Tarachand Ghusar, attached to Malegaon City Police Station.

3. According to the prosecution, on 12 November 2021 the Applicant and several others had assembled on public road from Sheth compound to Shahid Tower, Dudh Bazar, Old Agra Road, in order to protest about certain incident, which had happened in Tripura which according to the Applicant and others had hurt their religious sentiments. The police made an attempt to dissipate the mob, with a view to control the situation and restore peace. According to the prosecution, the members of the assembly turned violent and indulged in stone pelting on the police staff. The material allegation is that in the stone pelting, some of the police officers and staff was injured and public property was damaged.

4. I have heard learned counsel for the parties. Perused record.

5. It is submitted by the learned counsel for the Applicant that no specific role is attributed to the Applicant of pelting of the stones or taking part in the destruction of the public property. It is submitted that the Applicant is aged about 74 years. He

submitted that the Applicant is not seen in any CCTV footage at the spot of the incident.

6. Learned APP has submitted that there was a pamphlet by the Applicant asking the members of the particular community to assemble at Hussain Sheth Compound, Old Agra Road for taking out a March in protest of the incident which had happened in Tripura of discretion of religious place which has hurt the sentiments of the community. It is submitted that the Applicant is seen present in the CCTV footage at Hussain Sheth Compound from where the march had originated. It is submitted that in the incident there was wide spread violence resulting in injuries to some police officers and damage to the public property.

7. The learned counsel for the Applicant submitted that the pamphlet allegedly issued by the Applicant is not part of the chargesheet.

8. I have considered the circumstances and the submissions made.

9. It is undisputed that the Applicant is only seen in the area of Hussain Sheth Compound from where the march has originated. The incident of pelting of stones happened under the bridge on the Old Agra Road where there was no CCTV cameras.

In so far as the reliance placed on the pamphlet / circular issued by the Applicant is concerned, learned APP has tendered the English translation of said pamphlet. A perusal of the same does not show that there was any inflammatory statement made or instigation for any violence. Normally no exception can be taken for a call for peaceful demonstration. The Applicant is stated to be aged about 74 years. The investigation is complete and the chargesheet is filed. There is no scope for recovery of any incriminating articles as such.

10. In that view of the matter, the following order is passed.

ORDER

(i) In the event of his arrest, in connection with the investigation of Crime No.75/2021 registered with Malegaon City Police Station, Dist. Nashik, the Applicant Mohammad Muslim Shahshuddoha @ Muslim Dhande Pahelwan, be released on bail on executing a PR Bond in the sum of Rs.25,000/- with one or two solvent sureties, in the like amount.

(ii) The Applicant shall report to the Investigating Officer on 6/4/2022 and 7/4/2022 between 11.00 a.m. to 1.00 p.m. and as and when required by the Investigating Officer.

(iii) The Applicant shall co-operate with the Investigating Agency and shall surrender his mobile

phone if required by the Investigating Officer.

(iv) The Applicant shall not indulge in similar offence and shall not tamper with the prosecution evidence/witnesses.

(v) The Applicant shall not enter the jurisdiction of City Police Station, Malegaon and shall refrain himself from circulating any material which may have tendency to cause public unrest / violence.

(vi) In the event of breach of any of the conditions, the bail is liable to be cancelled.

(vii) The Criminal Application is disposed of, in the aforesaid terms.

C.V. BHADANG, J.