

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

ANTICIPATORY BAIL APPLICATION NO. 3317 OF 2022

Mr. Javid Anwar Vahidujjama ..Applicant

v/s.

The State of Maharashtra . ..Respondents

Mr. Mahendra Sandhyanshiv for the Applicant.  
Mr. A.A.Palkar, APP for the State.

**CORAM : ANUJA PRABHUDESSAI,J.  
DATED : 30<sup>th</sup> NOVEMBER, 2022.**

**P.C.**

1. This is an application under Section 438 Cr.P.C. filed by the aforesaid applicant apprehending his arrest in C.R.No. 75 of 2021 registered with Malegaon Police Station, Nashik, for the offences under Section 307, 353, 332, 333, 143, 144, 147, 148, 149, 120-B, 427 and 186 of Indian Penal Code, 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.

2. Heard Mr. Sandhyanshiv, learned Counsel for the applicant and Mr. Palkar, learned APP for the State. I have perused the records and considered the submissions advanced by the learned Counsel for the respective parties .

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3. The case of the prosecution is that on 12<sup>th</sup> November, 2021 at about 4.30 p.m., the applicant and others hatched criminal conspiracy to promote disharmony and enmity between different religious groups and to incite the persons who had gathered, to commit rioting, damage to the public property and attempt to commit murder or cause grievous hurt to the police. In prosecution of this conspiracy, the applicant and others formed an unlawful assembly, armed with deadly weapons and they pelted stones and damaged Government as well as private vehicles and assaulted the police officials who were discharging their official duty.

4. The records prima facie reveals that a mob of about 1000 to 2000 persons had gathered to protest against some incident that had occurred in Tripura. The mob turned violent and pelted stones and damaged vehicles and caused injuries to the police personnel. The CCTV footage prima facie shows presence of the applicant at the place of incident. Apart from the CCTV footage, there is no material to show that the applicant was involved in inciting the mob or damaging public vehicles or obstructing the police officials from discharging their duties. Hence, the mere fact that the applicant was seen at the place of incident would not justify custodial interrogation.

5. It is also brought to my notice that the co-ordinate bench of this Court has granted bail to the co-accused who was also seen in the CCTV footage. Considering that the applicant is similarly placed, he would also be entitled for bail on the principle of parity. Furthermore, the applicant does not have any criminal antecedents and there is no possibility of the applicant absconding or thwarting the course of justice.

6. Considering the above facts and circumstances, the application is allowed on following terms and conditions:-

(i) In the event of arrest of the applicant in Crime No. 75 of 2021 registered with Malegaon Police Station, Nashik, the applicant be released on bail on executing P.R. Bond of Rs.25,000/- (Rupees Twentyfive Thousand Only) with one or two solvent sureties in the like amount.

(ii) The applicant shall report to the Investigating Officer as and when required by the Investigating Officer for the purpose of investigation and interrogation.

(iii) The applicant shall provide his permanent as well as temporary address, if any, and his contact details to the Investigating Officer.

(iv) The applicant shall not change his residential address without prior intimation to the Investigation Officer.

**(ANUJA PRABHUDESSAI, J.)**