

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO.894 OF 2023

NAIM @ NAYYUM GANI DESHPANDE
 AND OTHERS
 VERSUS
 THE STATE OF MAHARASHTRA AND ANOTHER
 ...
AND

ANTICIPATORY BAIL APPLICATION NO.1044 OF 2023

SHAIKH SALIM SHAIKH GANI KURESHI
 VERSUS
 THE STATE OF MAHARASHTRA AND ANOTHER
 ...
In both the matters :

Advocate for Applicants : Mr. Jitendra Vijay Patil
 APP for Respondent – State : Mr. G.O. Wattamwar
 ...

CORAM : R. M. JOSHI, J.
DATE : 13th JULY, 2023

PER COURT :

. Applicants are apprehending arrest in connection with Crime No.91 of 2023 registered with Dharangaon Police Station, Dist. Jalgaon for the offences under Section 307, 353, 332, 143, 147, 148, 149, 323, 427 of Indian Penal Code and Section 3 of Prevention of Damage to Public Property Act and Section 3, 7 of Criminal Law

(Amendment) Act and Section 37 (1)(3), 135 of Maharashtra Police Act.

2. Police Head Constable - Vijay Chaudhari reported the incident occurred on 28.03.2023 at around 08:00 p.m. According to him, present applicants and other persons gathered at the spot and they obstructed to the *Dindi* to be taken in front of the *Masjid*. It is alleged that some persons started pelting stones and caused damage to the vehicle. There is also allegation against applicant - Shaikh Salim Shaikh Gani that he tried to ply his truck on the police personnel with an intention to kill them. On these allegations, offence is registered against him punishable under Section 307 of the Indian Penal Code.

3. Learned counsel for applicants states that there are 76 persons named in the First Information Report and the same has been done without verification of the fact from the CCTV footage or any other evidence available. It is submitted that there is no overt act alleged against other applicants except Shaikh Salim Shaikh Gani. As far as he is concerned, it is contended that allegation against him of driving truck and attempting to run over police personal is not acceptable.

4. Learned APP opposed the application. He drew attention of the Court to the statements recorded of the police personnel who had specifically stated about the truck being driven by applicant Shaikh Salim Gani, which gets further support from the injury certificate placed on record. Thus, according to him, it is not fit case to grant anticipatory bail.

5. No doubt, reference is there in respect of the names of present applicants who had objected for *Dindi* to be taken in front of *Masjid*. However, there is no overt act alleged against them as they have pelted stones thereon. Further there are allegations against around 76 persons from one side and around 30 to 40 persons on other side of pelting stones. It is practically impossible to ascertain as to who has done which act. There is no specific averments against other applicants except Shaikh Salim Gani of committing any overt act.

6. As far as allegation against Shaikh Salim Shaikh Gani is concerned, though it is stated by witnesses that he tried to run over

said truck on policemen and that by the dash of the truck as well as while escaping from dash, they sustained injuries. It is pertinent to note that injuries sustained by the police personnel are in the nature of either abrasion or simple injury. Such injuries are very much possible to have been caused in the fight between the two groups involving more than 100 persons. Nothing is to be recovered at the instance of the present applicants and hence following order:

ORDER

(i) Anticipatory Bail Application No.894 of 2023 is allowed in terms of interim relief dated 22.06.2023.

(ii) Anticipatory Bail Application No.1044 of 2023 is allowed in terms of interim relief dated 22.06.2023 in Anticipatory Bail Application No.894 of 2023, except condition no.(ii) which is modified as under:

(a) Applicant – Shaikh Salim Shaikh Gani Kureshi is directed to attend concerned police station once in a fortnight till filing of charge-sheet.

[R. M. JOSHI]
JUDGE

GGP