

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

BAIL APPLICATION NO. 2165 OF 2022

Mr. Mustaque Mohamed Hanif Shaikh	 Applicant
v/s.	
The State of Maharashtra	 Respondent

**WITH
BAIL APPLICATION NO. 305 OF 2023**

Mr. Abdul Rauf Karim Qureshi	 Applicant
v/s.	
The State of Maharashtra	 Respondent

Mr. Mohd. Ahmed Shaikh i/b. MJ Legal for the Applicant in
BA/2165/2022.

Ms. Sufia Qureshi i/b Mr. Javed Khan for the Applicant in
BA/305/2023.

Mr. S.H. Yadav, APP for the State.

Mr. Yunes Shaikh, PI, Chunabhatti Police Station, present.

Mr. Ramkar, PSI, Chunabhatti Police Station, present.

CORAM: SMT. ANUJA PRABHUDESSAI, J.

DATED : 26th JULY, 2023.

P. C. :-

. The aforesaid Applicants, who are facing trial in Sessions Case No.437/2022 pending on the file of learned Additional Sessions Judge, Greater Mumbai seek bail under section 439 of Cr.P.C. The said case arises from C.R.No.15/2022 registered at Chunabhatti Police Station, Mumbai for offences punishable under sections 143, 147, 148, 307,

323, 324, 326, 353, 504 r/w. 149 of the Indian Penal Code and under sections 5(C) and 9(A) of Maharashtra Animal Protection Act, 1995.

2. Heard learned counsel for the Applicants and learned APP for the State. I have perused the records and considered the submissions advanced by the learned counsel for the respective parties.

3. The aforesaid crime was registered pursuant to the FIR lodged by Pratik Nanaware, who is one of the members of Dhyaan Foundation which works for animal welfare. The facts narrated in the FIR prima facie reveal that on 16/02/2022, the said organization had received information that Eicher Truck carrying beef was proceeding towards Kasaiwada to deliver the beef to Aslam Rauf Qureshi @ Mulla. One of the senior members of the organization passed on the information to the police and on receiving the tip off, the police personnel and the members of organization proceeded towards Kasaiwada. They noticed that a maroon colour Eicher vehicle carrying beef was parked in an open place near kabrastan road. While the police took custody of the driver and were walking towards a public bridge, a group of 18 to 20 persons led by Aslam Rauf Qureshi came armed with rods and sticks and assaulted the first informant and Ashish Barik and further

obstructed the police from discharging their official duty. Said Aslam Qureshi was taken into custody and FIR came to be registered against the Applicant and others for committing the offence as stated above.

4. Learned counsel for the Applicants states that Aslam Qureshi who was armed with weapons and who was involved in the actual incident of assault, has been granted bail. The only role attributed to the Applicant – Mushtaque Shaikh was that he was the occupant of Eicher tempo which was parked near Kasaiwada whereas the Applicant- Abdul Rauf Karim Qureshi is stated to be the owner of the said vehicle. They were not armed with weapons and were not involved in assaulting the first informant and others.

5. Considering the role attributed to the Applicants, in my considered view, this is a fit case to exercise discretion under section 439 of Cr.P.C. Hence, the Applications are allowed on the following terms and conditions :-

- (i) The Applicant No.1 – Mustaque Mohamed Hanif Shaikh and Applicant No.2 - Abdul Rauf Karim Qureshi who are facing trial in Sessions Case No.437/2022 pending on the file of learned Additional Sessions Judge, Greater Mumbai arising

out of C.R.No.15/2022 registered at Chunabhatti Police Station, Mumbai, are ordered to be released on cash bail in the sum of Rs.30,000/- each for a period of four weeks ;

- (ii) The Applicants shall, within the said period of four weeks, furnish P.R. bonds in the sum of Rs.30,000/- each with one or two solvent sureties in the like amount ;
- (iii) The Applicants shall report to Chunabhatti Police Station, Mumbai once in three month on 1st Monday of the month between 11.00 a.m. to 02.00 p.m. till framing of the charge ;
- (iv) The Applicants shall not interfere with the Complainant and the other prosecution witnesses and shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case in any manner ;
- (v) The Applicants shall keep the Trial Court informed of his current address and mobile contact number and/or change of residence or mobile details, if any, from time to time.

(vi) The Applicants shall co-operate with the conduct of the trial and attend the trial Court on all dates, unless exempted.

6. Bail Applications stand disposed of in above terms.

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JAYANI

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(SMT. ANUJA PRABHUDESSAI, J.)