

Santosh

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

ANTICIPATORY BAIL APPLICATION NO. 1707 OF 2023

Momin Rashid Anjum Anwar Hussain ...Applicant
Versus
The State of Maharashtra ...Respondents

Mr. Nikhi Pujari, for the Applicant.
Mr. Shrikant Yadav, APP for the State.

CORAM: N. J. JAMADAR, J.
DATED : 23rd AUGUST, 2023

Order:-

1. Heard the learned Counsel for the parties.
2. Apprehending arrest in CR No.18 of 2023 registered with Azad Nagar Police Station, Malegaon, Nashik, for the offences punishable under Sections 143, 147, 148 and 149 of the Indian Penal Code, 1860 ("the Penal Code") and Section 4 read with Section 25 of the Arms Act, 1959, the applicant has preferred this application for pre-arrest bail.
3. The gravamen of indictment against the applicant is that on the night intervening 28th and 29th January, 2023 an unlawful assembly armed with deadly weapons was formed at Kabul Chowk, Malegaon. The applicant was a member of the said unlawful assembly.

4. The learned Counsel for the applicant submitted that the applicant was not named as one of the members of the said unlawful assembly in the FIR. Moreover, the FIR indicates that few of the members of the unlawful assembly had masked their faces.

5. When the application was moved before this Court on 24th June, 2023, this Court was persuaded to grant ad-interim relief and direct the release of the applicant in the event of his arrest.

6. The learned APP submitted that the CCTV footages show the presence of the applicant at the scene of occurrence.

7. The applicant does not appear to have been specifically named in the FIR. In the face of the allegation that the members of the unlawful assembly had masked their faces, the aspect of identity of the applicant as one of the members of the unlawful assembly would become contentious.

8. In view of the above, I am persuaded to make the ad-interim protection absolute.

9. Ad-interim order dated 22nd June, 2023 is thus made absolute on the terms and conditions incorporated therein.

10. The applicant shall attend Azad Nagar Police Station, Malegaon, Nashik on every alternate Sunday in between 10.00

am to 12.00 noon for a period of two months and thereafter as and when directed by the Investigating Officer.

11. The applicant shall also attend the proceedings before the jurisdictional Court regularly.

12. It is clarified that these *prima facie* observations are confined to determine entitlement to pre-arrest bail.

13. Application stands disposed.

[N. J. JAMADAR, J.]