

Dilip Dattu Datir and Others ...Applicants
vs.
The State of Maharashtra ...Respondent

CORAM: N. J. JAMADAR, J.
DATE: AUGUST 24, 2023

1. Heard the learned counsel for the applicants and the learned APP for the State.
2. This application was listed yesterday. At the request of the learned counsel for the applicants, the application came to be posted today.
3. The learned counsel for the applicants, on instructions, seeks leave to withdraw the application qua applicant No. 1 Dilip Datir. The learned counsel further submits that the applicant No. 3 Tushar Gangurde has already been arrested and, thus, the application is rendered infructuous qua applicant No. 3 Tushar.
4. The application thus stands dismissed as withdrawn qua applicant No.1 Dilip and infructuous qua applicant No. 3 Tushar.
5. This application is pressed for pre-arrest bail qua the applicant No. 2 Akshay Khandre, in connection with C.R. No. 308 of 2023

registered with Vavi police station, Nashik for the offences punishable under sections 120-B, 143, 144, 146, 147, 148, 149, 427 of the Indian penal Code, 1860 and section 3 of the Prevention of Damage to Public Property Act, 1984.

6. The gravamen of indictment against the applicant No. 2 and the co-accused is that the applicant and the co-accused allegedly formed an unlawful assembly and ransacked Toll No. 2, Samruddhi Mahamarg, Gonde Toll Plaza. The applicant and the co-accused gave slogans in support of a leader of a political party and the said party.

7. The learned counsel for the applicant submitted that the offence punishable under section 3 of the Prevention of Damage to Public Property Act, 1984 is punishable with imprisonment which may extend to five years. Learned counsel further submitted that the presence of the applicant No. 2 at the scene of occurrence is not borne out by the CCTV footage.

8. The learned APP, on instruction of the officer who was present yesterday, had fairly made a statement that CCTV footages do not show the presence of applicant No. 2 as a member of unlawful assembly at the time of occurrence.

9. Evidently, the first information report was lodged against unknown persons. 12-15 persons allegedly formed unlawful assembly which indulged in offence of rioting with deadly weapons.

In view of the fact that, at this stage, there is no prima facie material to establish the identity of applicant No. 2, as a member of the unlawful assembly, the applicant No. 2 deserves exercise of discretion.

Hence, the following order.

ORDER

1] In the event of arrest in connection with C.R. No. 308 of 2023 registered with Vavi police station, Nashik the applicant No. 2 Akshay Khandre be released on bail on furnishing a P.R. bond in the sum of Rs. 30,000/- with one or two sureties in the like amount.

2] The applicant No. 2 shall cooperate with the investigation and report to the investigating officer, Vavi police station, Nashik on every alternate Sunday in between 10 am to 12 noon for a period of two months from today.

3] The applicant No. 2 shall not tamper with the prosecution evidence and shall not give threat or inducement to any of the prosecution witnesses.

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

(N. J. JAMADAR, J.)