

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL APPLICATION (BA) NO.569 OF 2023

Altamash Ahmad Afsar Ahmed and others

Vs.

State of Maharashtra, Through Police Station Officer, Police Station, Old City Akola,
District Akola

WITH

CRIMINAL APPLICATION (BA) NO.576 OF 2023

Shaikh Naim Shaikh Azeem

Vs.

State of Maharashtra, Through Police Station Officer, Police Station, Old City Akola,
District Akola

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. Shoeb Inamdar, Advocate h/f Mr. M. Badar, Advocate for applicants.
Mr. A. M. Kadukar, APP for respondent/State.

CORAM : URMILA JOSHI-PHALKE, J.

DATED : 28/07/2023

Common Order.

1. Both applications are filed for grant of bail under Section 439 of the Code of Criminal Procedure in connection with Crime No.150/2023 registered with Police Station, Old City Akola, District Akola for the offences punishable under Sections 307, 353, 333, 435, 336, 337, 338, 427, 143, 147, 148 read with Section 149 of the Indian Penal Code, under Section 7 of Criminal Law Amendment Act, 2013 and Sections 3 and 4 of the

Prohibition of Damages to Public Property Act, 1984.
The applicants are arrested on 15.05.2023.

2. The accusation against the present applicants is on the basis of report lodged by the Police Constable Harshad Panjabrao Deshmukh on an allegation that due to some post circulated on social media by unknown person approximately 1000 to 1500 people of Muslim community gathered in front of the Police Station and started pelting stones. They were also holding iron pipes and sticks in their hands and they were giving slogans. They have attacked on the Police Station. In the said incident, one lady Police Constable sustained the injuries. On the basis of the said report, police have registered the crime against the present applicants.

3. As per the contention of the applicants that they were not at all present at the spot at the time of alleged incident. They are arrested merely on suspicion. None of the police witnesses discloses their names as an assailants. Now, the investigation is completed and the chargesheet is likely to be filed. For sufficient period they are already behind the bar. Their physical custody is not required and prays for grant of bail.

4. The learned APP strongly opposed the application on the ground that the applicants are involved in serious offence. They have caused the

damage to the public property at the Police Station as well as they have pelted stones in which the Police Constable has sustained the injury. Considering the role of the present applicants who were present holding the weapons in their hands, the bail application deserves to be rejected.

5. Having heard learned Counsel for the applicant and learned APP for the State. On perusal of the investigation papers, it reveals that 1000 – 1500 peoples mob gathered together in front of the Police Station holding iron pipes and sticks in their hand and they have attacked on the Police Station. In the said incident, one lady Police Constable has sustained grievous injury and other Police Constables have also sustained the injuries. During the investigation, the Investigation Officer has recorded the relevant statements of the witnesses. As far as the present applicants are concerned, some police witnesses have named the applicant Altamash to show his presence. The statements of these witnesses *prima facie* shows his involvement in the alleged offence. As far as the applicant Naim is concerned, his name is not mentioned by any of the witnesses. Considering the allegation against the applicant Altamash is concerned, general allegation is made. Now, the investigation is completed and the chargesheet is likely to be filed. The injured is also discharged from the hospital. The injury sustained

by the injured was not life threatening injuries. Now considering that the investigation is already completed, no purpose will be served by keeping the present applicants behind the bar. Both the applications deserves to be allowed by imposing certain conditions. In view of that, I proceed to pass following order.

(i) The Criminal Application (BA) No.569/2023 and Criminal Application (BA) No.576/2023 are allowed.

(ii) The applicants in Criminal Application (BA) No.569/2023 **(1) Altamash Ahmad Afsar Ahmed No.(2) Afroz Shah Aamir Shah and No.(3) Syed Faizanoddin s/o Syed Moinoddin** and in Criminal Application (BA) No.576/2023 **(1) Shaikh Naim Shaikh Azeem** are released on bail in Crime No.150/2023 registered with Police Station, Old City Akola, District Akola,, for the offences punishable under Sections 307, 353, 333, 435, 336, 337, 338, 427, 143, 147, 148 read with Section 149 of the Indian Penal Code, under Section 7 of Criminal Law Amendment Act, 2013 and Sections 3 and 4 of the Prohibition of Damages to Public Property Act, 1984, on executing PR bond in the sum of Rs.25,000/- each with one solvent surety in the like amount.

(iii) The applicants shall attend Police Station once in a week on Monday between 10.00 a.m. to 1.00 p.m. till further orders.

(iv) The applicants shall furnish their cell phone numbers and address with the address proof.

(5)

37.A.ba.569.B.576.2023

(v) The applicants shall not leave the jurisdiction of Sessions Court Akola without prior permission of the Court.

(URMILA JOSHI-PHALKE, J.)

Sarkate