

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

CRIMINAL APPLICATION (BA) NO. 573/2023

Ilyas Khan Wahid Khan V/s State of Maharashtra

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Mr. M. Badar, counsel for applicant

Mr. A.M.Kadukar, APP for non-applicant/State.

CORAM : URMILA JOSHI-PHALKE, J.

DATED : 09/08/2023.

1. The present application is for grant of bail under Section 439 of the Code of Criminal Procedure, 1973, in connection with Crime No. 151/2023, registered with Old City Police Station, Akola, Tah. and District Akola, for the offences punishable under sections 143, 147, 148, 452, 337, 435, 427 read with Section 149 of the Indian Penal Code, 1860, Sections 3 and 4 of the Prohibition of Damages to Public Property Act, 1984, Sections 4 and 25 of the Arms Act, 1959 and Section 7 of the Criminal Law Amendment Act, 2013. The applicant is arrested on 15/05/2023.

2. The allegation against the present applicant is that along with 200 to 250 unknown people resident of Old City Akola of Muslim Community gathered near coaching classes at Gadgenagar, Jairamsingh Plot at about 11.00 p.m., the

applicant was one of them holding iron pipe in his hand. These persons gathered their and were causing damages to the motor cycles and were pelting stone. On the basis of said report, the police have registered the crime against the present applicant and other co-accused.

3. As per the contention of the present applicant, merely on suspicion, he is arrested. During the investigation iron pipe is already seized from his possession. Now, investigation is completed and charge-sheet is likely to be filed, his further custody is not required. The other co-accused are already released on bail.

4. The said application is strongly opposed by the State on the ground that there is direct material to show the involvement of the present applicant with the alleged offence and prays for rejection of the present application.

5. Heard learned counsel for the applicant and learned APP for the State.

6. On perusal of the investigation papers, it reveals that due to circulation of some message, the people of Muslim Community gathered near coaching class of the informant and caused damages to the property of the informant as well as some motorcycle

which were parked on the road. As far as the allegation against the present applicant is concerned, it is general in nature, it is not alleged that either he has used the said weapon and caused any damages to any article. The incriminating article i.e. rod is already recovered from the present applicant, no purpose will be served by keeping him behind bar, the other co-accused are already released on bail. In view of that, application deserves to be allowed, by imposing certain conditions. Accordingly, I proceed to pass following order:

- a. The criminal application is **allowed**.
- b. The applicant – Ilyas Khan Wahid Khan is released on bail in connection with Crime No. 151/2023, registered with Old City Police Station, Akola, Tah. and District Akola, for the offences punishable under sections 143, 147, 148, 452, 337, 435, 427 read with Section 149 of the Indian Penal Code, 1860, Sections 3 and 4 of the Prohibition of Damages to Public Property Act, 1984, Sections 4 and 25 of the Arms Act, 1959 and Section 7 of the Criminal Law Amendment Act, 2013, on executing PR. Bond in the sum of Rs.

25,000/- with one solvent surety in the like amount.

- c. The applicant shall attend concerned Police Station once in a week on Monday between 10.00 a.m. to 01.00 p.m. till further orders.
- d. The applicant shall furnish his cell phone number and address with the address proof.
- e. The applicant shall not leave the jurisdiction of Sessions Court, Akola without prior permission of the Court.

JUDGE