

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.**

CRIMINAL APPLICATION (BA) NO.635 OF 2023
(Chandrakant @ Munna Sheshrao Ukarde Vs. 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

Shri A.R. Deshpande, Advocate for the applicant.
Shri A.M. Kadukar, APP for the State.

CORAM:- URMILA JOSHI-PHALKE, J.
DATED :- JULY 31, 2023.

Heard.

2. Present application is for grant of bail under Section 439 of the Code of Criminal Procedure in connection with Crime No.153/2023 registered at police station Old City, Akola for the offence punishable under Sections 143, 147, 148, 435, 427, 436, 297 read with Section 149 of the Indian Penal Code and Section 135 of the Maharashtra Police Act, 1951 and Section 7 of the Criminal Law (Amendment) Act, 2013 and Section 4/25 of the Arms Act, 1959.

3. The applicant is arrested on 06/06/2023 and since then he is in jail.

4. The applicant is involved in the crime on the basis of the crime registered at Old City police station, District Akola as report is lodged by Sevanand Wamanrao Wankhade on an allegation that riot took place in the night between 13/05/2023 and 14/05/2023 near Turab Ali Masjid and Raj Rajeshwar Temple at Old City, Akola. As per the allegation against the present applicant that he

was proceeding at the spot along with sword in his hand. The report is lodged by the Police Inspector Shri Wankhade of Old City, Akola police station. As per the recitals of the FIR in order to control the riot, patrolling was going on. At about 1.30 to 2.00 a.m. at Gangadhar Chowk he noticed that grocery shop of one Wankhade was being set to fire by the mob of about 1500 to 2000 persons. The mob was not responding to the efforts of the police, though all measures are taken to control the mob. On the basis of said report, police have registered the crime and the present applicant was arrested on the basis of the statement made by one Syed Mohsin Ali Syed Akhtar Ali.

5. As per the contention of the applicant that only allegation against him is that he was proceeding by holding sword in his hand. In fact, there is no allegation that either he caused any hurt to any of the witnesses or he has used the said sword or caused any damaged either to the Masjid or any person. As far as the investigation regarding the recovery of sword is concerned, it is completed. Now, his further custody is not required. In view of that he be released on bail.

6. Said application is strongly opposed by the State on the ground that approximately 1500 to 2000 persons were gathered there. The present applicant was witnessed holding sword in his hand. The damage was caused as well as the involvement of the present applicant was revealed in the riot. The investigation is still in

progress. In view of that the application deserves to be rejected.

7. Heard Shri A.R. Deshpande, learned Counsel for the applicant. He reiterated the contention and learned Additional Public Prosecutor for the State.

8. Perused the investigation papers. From the statements of the various witnesses, it reveals that present applicant and various persons were holding weapons in their hand to protect themselves. The statement of one Syed Mohsin Ali Syed Akhtar Ali who is the In-charge of Turab Ali Masjid has disclosed the role of the present applicant that he was holding sword in his hand and was proceeding towards the Masjid. As far as the use of the weapon is concerned, no witness came forward to show present applicant either caused any damage to the Masjid or caused any damage to any of the persons who gathered there. As far as the recovery of the said sword is concerned which is recovered at the instance of the present applicant. Various statements are already recorded. The investigation in respect of the role of the present applicant is already completed. The investigation regarding the absconding accused is in progress. Considering the role of the present applicant his further custody is not required. No purpose will be served by keeping him behind bar. In view of that the application deserves to be allowed by imposing certain conditions. Hence, I proceed to pass the following order :

- (i) The application is allowed.

(ii) The applicant - Chandrakant @ Munna Sheshrao Ukarde in Crime No.153/2023 registered at police station Old City, Akola for the offence punishable under Sections 143, 147, 148, 435, 427, 436, 297 read with Section 149 of the Indian Penal Code and Section 135 of the Maharashtra Police Act, 1951 and Section 7 of the Criminal Law (Amendment) Act, 2013 and Section 4/25 of the Arms Act, 1959, be released on bail on executing PR. Bond in the sum of 25,000/- (Rs. Twenty five thousand) with one surety in the like amount.

(iii) The applicant shall attend concerned Police Station once in a week i.e. on every Monday between 10.00 a.m. and 1.00 p.m. till filing of the charge-sheet.

(iv) The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case and shall not tamper the prosecution evidence.

(v) The applicant shall furnish his Cell phone number and address along with the address proof before the Investigating Officer.

9. The application is disposed of.