

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

BAIL APPLICATION NO.1094 OF 2024

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| 1. | Huzaifa Ansar Ansari | |
| 2. | Hanzala Abdul Razzak Patel | |
| 3. | Fukraan Ibrahim Kachhi | |
| 4. | Zaib Salim Khan | |
| 5. | Mohammad Saeed Wahab Sayyed | |
| 6. | Azizul Haque Azimul Haque Khan | .Applicants |

Versus

The State of Maharashtra	.Respondent
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WITH

BAIL APPLICATION NO.1111 OF 2024

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| 1. | Sameer Siraj Dharani | |
| 2. | Ayaz Bashir Nalband | .Applicants |

Versus

The State of Maharashtra	.Respondent
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Mr. Mohammad Shine K. a/w. Mr. Mahesh Ahire, Mr. Parvez Khan, and Mr. Waseem Dhuru Patel, Advocates, for the Applicants.
 Ms. Veera Shinde, APP, for the Respondent – State.
 Mr. Shriram S. Shinde, APP, for the Respondent – State.
 Mr. Bajrang Rajput, A.P.I., Panvel City Police Station, present.

CORAM: MADHAV J. JAMDAR, J.

DATE: 20.03.2024

P. C.

1. Heard Mr. Mohammad Shine K., the learned Counsel for the Applicants, and Ms. Shinde and Mr. Chaudhari, learned APP for the Respondent-State.

2. This regular Bail Application is preferred under Section 439 of the *Code of Criminal Procedure, 1973*. The relevant details are as follows:-

1.	C. R. No.	34 of 2024
2.	Date of registration of F.I.R.	23.01.2024
3.	Name of Police Station	Panvel City
4.	Sections invoked	307, 143, 147, 148, 149, 341, 323, 324, 427, 506 r/w 34 of the I.P.C., 1860
5.	Date of incident	22.01.2024
6.	Date of arrest	<u>B. A. No. 1094 of 2024</u> Applicant No. 1 – 23.01.2024 Applicant No. 2 – 23.01.2024 Applicant No. 3 – 24.01.2024 Applicant No. 4 – 26.01.2024 Applicant No. 5 – 27.01.2024 Applicant No. 6 – 30.01.2024 <u>B. A. No. 1111 of 2024</u> Applicant No. 1 – 24.01.2024 Applicant No. 2 – 25.01.2024

3. As per the prosecution case, on 22.01.2024, one Mr. Kshitij Shingare (Panvel Vidhansabha Yuva Sena Pramukh) and a member of the political party – ‘Shiv Sena’ had arranged a motorcycle rally from Utsav Chowk-Kharghar to New Panvel to celebrate the inauguration of the ‘Shri Ram Mandir Ayodhya’. As per the F.I.R., the motorcycle rally started at about 12.30 p.m. and reached New Panvel at about 2.00 p.m. where the rally was scheduled to be concluded and the participants were to have lunch. However, said Kshitij Shingare suddenly changed the route of the motorcycle rally. As per the prosecution case, when the said rally was passing by a mosque, the accused persons assaulted the participants of the rally. In the F.I.R.,

the weapon which has been used has not been stated. The 'Injury Certificate' shows that the injuries are simple in nature.

4. Learned Counsel for the Applicants submitted that the incident in question took place on the spur of the moment. He submitted that certain slogans were raised by the persons who were participating in the said rally and that the said slogans while passing by the mosque indicated that the persons who are followers of a certain faith should go to some other country. He submitted that provocative slogans were raised. He submitted that a complaint to that effect was lodged with the Police, however, no action is taken even till date. He submitted that most of the Applicants are young men in the age group of 19 to 22 and two Applicants are aged 38 and 39. He submitted that the injuries are simple in nature and there are no antecedents.

5. On the other hand, Ms. Shinde and Mr. Chaudhari, learned APPs for the Respondent-State vehemently opposed the Bail Applications. They submitted that the C.C.T.V. footage of the incident is available which shows that the Applicants assaulted the victims. They submitted that the investigation is still going on and that some of the Accused persons are absconding.

6. A perusal of the record shows that the incident in question has taken place on 22.01.2024 in between 2.15 p.m. and 2.30 p.m.. The F.I.R. was lodged after a period of ten hours on 23.01.2024 at 00:17 hrs. In the F.I.R., nothing is mentioned about the weapon which was used in the offence in question. The learned Trial Court has referred

to and gone through the C.C.T.V. footage. Therefore this Court has also seen the C.C.T.V. footage. In the C.C.T.V. footage it is visible that the assault is by fist blows. One person is seen using cricket bat. Even a plastic chair has also been used. However, it is to be noted that the C.C.T.V. footage further shows that some persons were trying to prevent the said assault.

7. Learned Counsel for the Applicants submitted that the incident in question has taken place on the spur of the moment as there was a provocation in view of the slogans which are set out hereinabove. He also submitted that the police have not registered any offence although written complaint is filed with respect to the participants in the rally regarding provocative slogans.

8. Perusal of the record shows that the injuries are simple in nature. Most of the Applicants are young men in the age group of 19 and 22 and two Applicants are aged 38 and 39.

9. The Applicants do not have any criminal antecedents.

10. The Applicants do not appear to be at risk of flight.

11. Accordingly, the Applicants can be enlarged on bail by imposing conditions.

12. In view thereof, the following order:-

ORDER

(a) The Applicants - Huzaifa Ansar Ansari, Hanzala Abdul Razzak Patel, Fukraan Ibrahim Kachhi, Zaib Salim Khan, Mohammad Saeed Wahab Sayyed, Azizul Haque

Azimul Haque Khan, Sameer Siraj Dharani and Ayaz Bashir Nalband be released on bail in connection with C.R. No.34 of 2024 registered with the Panvel City Police Station, Navi Mumbai on their furnishing PR. Bond of Rs.15,000/- each with one or two local sureties in the like amount.

(b) On being released on bail, the Applicants shall furnish their cell phone numbers and residential addresses to the Investigating Officer and shall keep the same updated, in case of any change thereto.

(c) The Applicants shall report to the Panvel City Police Station, Navi Mumbai on every Sunday between 11.00 a.m. and 1.00 p.m. till filing of the charge-sheet and thereafter, once a month i. e. on the first Sunday of every month between 11.00 a. m. and 1.00 p. m. till the conclusion of the trial, if Charge-sheet is filed.

(d) The Applicants shall not directly or indirectly make any inducement, threat, or promise to any person acquainted with the facts of the case, so as to dissuade such a person from disclosing the facts to the Court or to any Police personnel.

(e) The Applicants shall not tamper with the prosecution evidence and shall not contact or influence the Complainant or any witness in any manner.

(f) The Applicants shall attend the trial regularly. The

Applicants shall co-operate with the Trial Court and shall not seek unnecessary adjournments thereat.

(g) The Applicants shall surrender their passports, if any, to the Investigating Officer.

13. The Bail Applications are disposed of accordingly.

14. It is clarified that the observations made herein are *prima facie* and the Trial Court shall decide the case on its merits, uninfluenced by the observations made in this order.

[MADHAV J. JAMDAR, J.]