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37.aba.382.2024 & aba.383.2024

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

CRIMINAL APPLICATION (ABA) NO.382 OF 2024

Shaikh Gufran Shaikh Ismail

Vs.

State of Maharashtra, Through Police Station Officer, Police Station,
Nandura, District Buldhana

AND

CRIMINAL APPLICATION (ABA) NO.383 OF 2024

Shaikh Sadique Shaikh Ismail

Vs.

State of Maharashtra, Through Police Station Officer, Police Station,
Nandura, District Buldhana

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

Court's or Judge's orders

Mr. Sibghatullah Jagirdar, Advocate for applicants.
Ms. Soniya Thakur, APP for respondent/State.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 13/06/2024

1. Apprehending the arrest at the hands of police in connection with Crime No.235/2024 registered with Police Station Nandura, Taluka Nandura, District Buldhana for the offences punishable under Sections 308, 353, 332, 143, 147, 148, 427 read with Section 149 of the Indian Penal Code and Section 7 of the Criminal Law Amendment Act, 1932 and Section 135 of the Maharashtra Police Act, 1951, the applicants approached this Court for grant of pre-arrest bail.

2. As per the allegation in the FIR, on 28/03/2024 as the procession on account of Chhatrapati Shivaji Maharaj Jayanti was in progress, at the relevant time, there was a riot between the two communities and during that present applicants and other co-accused have pelted stones and bricks in which the some police personnel sustained the injuries and damaged is caused to the police vehicles.

3. Learned Counsel for the applicants submitted that as far as the present applicants are concerned, general allegations are made against them. The other co-accused are already released on ad-interim anticipatory bail. Considering that the group of the persons of two communities were pelting stones towards each other wherein the police personnel have sustained the injuries, there was no intention on the part of the present applicants to cause the injury to the police personnel or any other persons. In view of that, they be protected by granting anticipatory bail.

4. Learned APP strongly opposed the said application on the ground that the specific role is attributed to the present applicants by the witnesses whose statements are recorded. She further submitted that 80 to 100 persons belonging to the Muslim Community reached there and pelted stones. Considering the nature of the incident, the application deserves to be rejected.

5. After hearing both the side and on perusal of the recital of the FIR and investigation papers, it reveals that during the rifts between two communities, they pelted stones towards each other wherein the police personnel have sustained the injuries. As far as the custodial interrogation is concerned, which is not required as nothing is to be recovered from them. In view of that, both the applications deserves to be allowed by imposing certain conditions. Accordingly, I proceed to pass following order:

(i) Criminal Application (ABA) No.382/2024 and Criminal Application (ABA) No.383/2024 are allowed.

(ii) In the event of arrest, the applicant in Criminal Application (ABA) No.382/2024 **Shaikh Gufran Shaikh Ismail** and the applicant in Criminal Application (ABA) No.383/2024 **Shaikh Sadique Shaikh Ismail** shall be released on anticipatory bail, in connection with Crime No.235/2024 registered with Police Station Nandura, Taluka Nandura, District Buldhana for the offences punishable under Sections 308, 353, 332, 143, 147, 148, 427 read with Section 149 of the Indian Penal Code and Section 7 of the Criminal Law Amendment Act, 1932 and Section 135 of the Maharashtra Police Act,

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1951, on executing P.R. bond in the sum of Rs.25,000/- each with one solvent surety in the like amount.

(iii) The applicants shall attend the concerned Police Station as and when required for the investigation purpose and shall cooperate with the investigating agency.

(iv) The applicants shall not directly or indirectly make any inducement and threat or promise to any person acquainted with the facts of the present case.

6. Both applications are disposed of.

(URMILA JOSHI-PHALKE, J.)