



IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.

CRIMINAL APPLICATION NO. 2154 OF 2024

1. Yashopal S/o Pralhad Gawai
age : 27 years, Occ: Advocate,
R/o. : Near Gode Hospital, Ward No.-5,
Deulgaon Mahi,
District -Buldhana ..APPLICANT

-VERSUS-

1. The State of Maharashtra
Through Kadim
Police Station, Jalana ..RESPONDENT

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Advocate for the Applicants : Mr. Swapnil Joshi a/w. Ms. Sakshi
Muley i/b. J. P. Legal Associates
APP for Respondent State : Mrs. Priya Bharswadkar

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**CORAM : SMT. VIBHA KANKANWADI AND
SANJAY A. DESHMUKH, JJ.**

DATED : 29th JANUARY 2025

O R D E R (PER SANJAY A. DESHMUKH, J.) :

1. This is an application for quashing the proceeding in RCC No.681
of 2018 arising out of FIR C.R. No.4/18 registered with Kadim Police
Station, District Jalna for the offences punishable under Sections 307,
120-B, 143, 147, 148, 149, 435, 332, 353, 333, 337 and 504 of the
Indian Penal Code (for short 'IPC').

2. The learned Advocate for the applicant pointed out that the FIR is registered against applicant and other 39 accused. It is averred in the report that on 01.01.2018 at Bheema Koregaon, Taluka & District Pune, there was function of Shourya Din. The tension was created in the Jalna city. The Police were patrolling. Informant-Shailesh Shejul, Police Sub Inspector along with his staff when reached near the statue of Dr.Babasaheb Ambedkar at Nutanvasahat, the people were gathered, the mob set ablaze their patrolling vehicle i.e. Bolero Jeep bearing No. MH-20-V-4145. They pelted stones, they broke down car and other government vehicles. The mob assaulted by pelting stones on Informant-Shailesh and other police officials. They sustained injuries in that incident. The mob also set ablaze the Scooter bearing No.MH-21-AW-8116, Motor Cycle bearing No.MH-21-G-16 and Truck bearing No. MH-12-G-6859, car No. MH-21-C-1373. The police could control the mob after some time. Report was lodged in the Police Station Kadim at Jalna against the applicant and others.

3. Learned Advocate for the applicant submitted that applicant is falsely implicated in the crime. The name of the applicant is not mentioned in the report. Test identification parade is not conducted to identify him. He submitted that there is no evidence against the applicant. If he is compelled to face the trial, it will be an abuse of process of Courts. He submitted to allow the application and quash the

report.

4. Learned A.P.P. strongly opposed the application and submitted that applicant's nick name is mentioned in the report as 'Bunty'. His name is revealed later on. There is evidence against the applicant. Learned A.P.P. therefore prayed to reject the application.

5. Perused the report and the charge sheet. Upon considering entire charge sheet, it appears that some of the witnesses and informant have sustained injuries like abrasion etc. There are statements of witnesses. The name of the applicant is not stated in the report. However, it is mentioned as 'Bunty (Full name is not known) R/o. Chandanzira'. There is no evidence of test identification parade of the applicant. Even if the test identification parade is conducted later on, it has no evidentiary value and it cannot be relied upon due to the delay caused for it as held by Hon'ble Supreme Court in the case of ***Mukesh Singh Vs. The State (NCT of Delhi) AIR 2023 SC 4097.***

6. Considering all these aspects, we are of the view that there is no substance in the report registered against the applicant to proceed further with the trial against him.

7. In such situation, if the applicant is compelled to face the trial it would be certainly an abuse of process of Court. The Application

therefore, deserves to be allowed.

8. Application is allowed in terms of prayer clause (C).

[SANJAY A. DESHMUKH]
JUDGE

A.G.Narwade

[SMT. VIBHA KANKANWADI]
JUDGE