



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

CRIMINAL APPLICATION (BA) NO.485/2025

Mohammad Iqbal Ismail Ansari and ors

..VS..

The State of Mah., thr.PSO PS Ganeshpeth, Nagpur

WITH

CRIMINAL APPLICATION (BA) NO.516/2025

Mohammad Rahil s/o Zakir Khan and anr

..VS..

The State of Mah., thr.PSO PS Ganeshpeth, Nagpur

WITH

CRIMINAL APPLICATION (BA) NO.517/2025

Mohd.Muzammil Ansari

..VS..

State of Mah., thr.PSO PS Ganeshpeth, Nagpur

WITH

CRIMINAL APPLICATION (BA) NO.580/2025

Ashfaq Ullah Khan s/o Aminullah Khan

..VS..

The State of Mah., thr.PSO PS Ganeshpeth, Nagpur

WITH

CRIMINAL APPLICATION (BA) NO.590/2025

Mohd.Iftekhar Mohd.Sabir

..VS..

The State of Mah., thr.PSO PS Ganeshpeth, Nagpur

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

Court's or Judge's Order

BA No.485/2025

Shri A.V.Gupta, Senior Counsel assisted by Shri Mohd.Naveed Opai and Shri R.S.Akbani, Advocates for Applicants.

Shri D.V.Chauhan, Public Prosecutor (Senior Counsel) assisted by Shri N.B.Jawade, Additional Public Prosecutor for the State.

BA Nos.516 & 517/2025

Shri S.P.Bhandarkar, Counsel and Shri Atharva Khadse, Adv. for the Applicants.

Shri D.V.Chauhan, Public Prosecutor (Senior Counsel) assisted by Shri N.B.Jawade, Additional Public Prosecutor for the State.

BA Nos.580/2025

Shri R.S.Akbani, Counsel for Applicant.

Shri D.V.Chauhan, Public Prosecutor (Senior Counsel) assisted by Shri N.B.Jawade, Additional Public Prosecutor for the State.

BA Nos.590/2025

Shri Syed Ateeb, Counsel for the Applicant.

Shri D.V.Chauhan, Public Prosecutor (Senior Counsel) assisted by Shri N.B.Jawade, Additional Public Prosecutor for the State.

CORAM : URMILA JOSHI-PHALKE, J.

CLOSED ON : 20/06/2025

PRONOUNCED ON : 25/06/2025

1. By these applications, applicants are seeking regular bail in connection with Crime No.115/2025 registered with the non-applicant/police station for offences under Sections 45, 49, 50, 61(2), 74, 76, 79, 109, 115(2), 117(2), 117(4), 118(1), 118(2), 121(1), 121(2), 125, 126(2), 127(2), 132, 135, 189,(2), 189(3), 189(4), 189(5), 189(9), 190, 191(2), 191(3), 192, 195(1), 195(2), 196(1), 197(1), 223, 296, 324(2),

324(3), 324(4), 324(5), 324(6), 326(F), 326(G), 351(2), 351(3), 352, and 353(2) of the Bharatiya Nyaya Sanhita read with Section 7 of the Criminal Law Amendment Act and under Sections 3 and 4 of the Prevention of Damage to Public Property Act read with Section 3 of the Maharashtra Prevention of Defacement of Property Act and under Sections 3, 4, and 5 read with Section 25 of the Arms Act and under Sections 37(1) and 135 of the Maharashtra Police Act.

2. In bail application Nos.485/2025, applicants are arrested on 17.3.2025;

In bail application Nos.516 and 517/2025, applicants are arrested on 18.3.2025;

In bail application No.580/2025, the applicant is arrested on 20.3.2025, and

In bail application No.590/2025, the applicant is arrested on 17.3.2025.

Since dates of arrest all applicants are behind the bar.

3. The crime is registered on the basis of a report lodged by Assistant Police Inspector Jitendra Baburao Gadge. As per his report, he was discharging his duty as day officer on 17.3.2025. On that day, some persons have burned effigies of grave of Aurangzed at Shree Chhatrapati Maharaj Statue, Gandhi Gate, Mahal, Nagpur. The said incident was reported by one Faheem Khan s/o Shaheen Khan by approaching the police station along with 50-60 persons. On the basis of the said report, the crime is registered under Section 223 of the BNSS read with Sections 37(1) and 37(2) and 135 of the Maharashtra Police Act against nine persons. The understanding was given to keep peace to persons who gathered at the police station. Despite the request, on that day, at about 4:00 pm, 500 to 600 people from muslim community gathered near Shree Chhatrapati

Maharaj Statue, Gandhi Gate, Mahal, Nagpur and started raising slogans against police authorities. At various places, people started gathering along with weapons and the said people attacked police personnel at Bhaldarpura Square with deadly weapons and stones. They used petrol bombs and abused police officers. The illegal mob also outraged modesty of women police officers and constables and abused them in filthy language. They also caused damages to vehicles of public standing on road and vehicles of the police. Applicants in bail application No.485/2025 are arrested on the spot and applicants in another applications are came to be arrested subsequently. On the basis of the said report, the crime is registered.

4. Heard learned Senior Counsel Shri A.V.Gupta for applicants in bail application No.485/2025; learned counsel Shri S.P.Bhandarkar for applicants in bail application No.516 and 517/2025; Shri R.S.Akbani for

the applicant in bail application No.580/2025; learned counsel Shri Syed Ateeb for the applicant in bail application No.590/2025, and learned Public Prosecutor Shri D.V.Chauhan for the State.

5. Learned Senior Counsel for applicants submitted that applicants are arrested merely on suspicion. Except CDRs, there is nothing on record to show involvement of applicants. The test identification parade is also held at a belated stage. Two witnesses, allegedly, Dattatraya Shirke and Kirti Kshirsagar identified applicants. However, they have not specified any role to applicants. No overt act is attributed to applicants. The investigation is already completed and chargesheet is already filed. Further incarceration of applicants is not required. As such, applicants be released on bail.

6. Learned counsel appearing in another bail applications also endorsed the same contentions

advanced by learned Senior Counsel for applicants.

In addition to that, learned counsel Shri S.P.Bhandarkar submitted that presence of applicants on the spot is not established. The mobile location of applicants ought to be there as there are residents of the same place i.e. Bhaldarpura. One of applicants Mohammad Rahil s/o Zakir Khan (Bail Application No.516/2025) is claimed to be identified by Kirti Kshirsagar and Mohammad Yasir s/o Saqib Khan, another applicant in the said application, is claimed to be identified by Dattatraya Shirke.

The applicant in bail application No.517/2025 is identified by Kirti Kshirsagar.

The identification parade is held belatedly. Except the test identification parade, which is not substantive evidence, applicants are arraigned as accused. In view of that they be released on bail.

7. Learned counsel Shri R.S.Akbani and Shri

Syed Ateeb, submitted that applicants are neither identified by any of witnesses nor specific role is attributed to them and, therefore, they be released on bail.

8. Learned Public Prosecutor for the State strongly opposed these applications and submitted that involvement of applicants in crime is against the society. It is a sort of terrorism. Ultimately, the society is sufferer and liberty of the people, who earn their livelihood on daily basis, was put on stake. The applicants also caused damage to the public property as well as the Government. Four police officers sustained grievous injuries, one is rank of the Deputy Commissioner of Police and one is rank of Assistant Sub Inspector and 24 constables sustained injuries in the alleged incident. The CCTV Footage discloses involvement of applicants in the alleged incident. Statements of witnesses disclose involvement of applicants in provoking the public at large. The involvement of applicants is vital. It is mob violence affecting the entire society. In view of

that, applications of applicants deserve to be rejected.

9. In support of his contentions, learned Public Prosecutor for the State placed reliance on the decision of the Hon'ble Apex Court in the case of **Kodungallur Film Society and anr vs. Union of India and ors**, reported in (2018)10 SCC 713.

10. Having heard learned Senior Counsel and learned counsel appearing for respective parties and perused investigation papers, it revealed that on 17.3.2025, some persons caused damage to effigies of grave of Aurangzeb and report of the same was registered against nine persons. Thereafter, messages were circulated and people started gathering together along with weapons in their hands. As police authorities were aware about possibility of the untoward incident, an arrangement for security was made and police staff was deputed at various places. At Bhaldarpura Square, illegal mob attacked the police staff with deadly weapons and stones. The mob also

attacked with the help of petrol bombs and abused police officers. The vehicles of the public as well as police were damaged. In the incident, 5 Deputy Commissioners of Police, who were trying to keep peace and maintain law and order situation, received grievous injuries in the alleged incident as well as senior police officers and 25 police constables also sustained injuries.

11. As far as role of applicants in bail application No.485/20125 is concerned, they are accused Nos.6, 7, 8, and 10 and arrested on the spot of the incident itself when they were seen taking an active part in the riot. Mobile phone of applicant No.4 is seized and CDRs and STDs are collected. The CCTV Footage is also collected from various places. It revealed during the investigation that various messages were circulated in the group namely "Sunni Youth Force" created by co-accused Faheem Khan just prior to the incident of the riot and some messages sent were deleted.

12. As far as applicants in bail application No.516

and 517/2015 are concerned, they are identified by witnesses Kirti Kshirsagar and Dattatraya who also specified their role. The SDRs also show their mobile location at Bhaldarpura Square. The involvement of applicants in the crime revealed during the investigation.

13. As far as applicants in bail application Nos.580 and 590/2025 are concerned, the CCTV Footage discloses their involvement in the alleged crime.

14. Thus, it reveals from investigation papers that co-accused Faheem Khan, who was Admin of the WhatsApp Group viz. "Sunni Youth Force", circulated messages and particular community started gathering together. As the police machinery was aware about the incident of causing damage to effigies of grave of Aurangzeb, the police force was deputed at various places. However, mob of 500 to 600 people attacked them, caused injuries to police officers, and also caused damages to the government vehicles as well as private vehicles. The role of applicants reveals from

statements of witnesses as well as CCTV Footage.

15. The applicants, in bail application Nos.516 and 517/2025, are also identified by witnesses during identification parade.

16. Learned Public Prosecutor for the State has rightly placed reliance on the decision of the Hon'ble Apex Court in the case of **Kodungallur Film Society and anr** *supra* wherein the Hon'ble Apex Court observed that this court has time and time again underscored the supremacy of law and that one must not forget that administration of law can only be done by law-enforcing agencies recognised by law. Nobody has the right to become a self-appointed guardian of the law and forcibly administer his or her own interpretation of the law on others, especially not with violent means. Mob violence runs against the very core of our established legal principles since it signals chaos and lawlessness and the State has a duty to protect its citizens against the illegal and reprehensible acts of such groups.

It is further observed that hate crimes as a product of intolerance, ideological dominance and prejudice ought not to be tolerated; lest it results in a reign of terror. Extra judicial elements and non-State actors cannot be allowed to take the place of law or the law enforcing agency.

17. On going through the entire investigation papers, as far as involvement revealing from investigation papers of applicants is concerned, there is no dispute that the crime committed by applicants is against the society.

18. Admittedly, at the stage of granting bail, an elaborate examination of evidence and detailed reasons touching merits of case, which may prejudice the accused, should be avoided, but there is a need to indicate reasons.

19. It is well settled position of law that jurisdiction to grant bail has to be exercised having regard to the facts and circumstances of cases. The factors to be taken into consideration are; 1) the nature of accusations and severity

of the punishment; 2) reasonable apprehension of tampering with witnesses; 3) reasonable possibility of securing presence of accused, and 4) character, behaviour and standard of accused.

20. It is settled principle of law that “bail is rule and jail is exception’.

21. Considering the investigation is already completed and chargesheet is already filed, no purpose will be served by keeping applicants behind and the bar trial will take its own time for its final disposal. Hence, I pass following order:

ORDER

(1) The Criminal Applications are **allowed**.

(2) Applicants Mohammad Iqbal Ismail Ansari; Mohd.Absar Mohd.Ismail Ansari; Mohd.Izhar Mohd.Ismail Ansari; Mohd.Ejaz Mohd.Ismail Ansari; Mohammad Rahil s/o Zakir khan; Mohammad Yasir s/o Saqib Khan; Mohd.Muzammil

Ansari; Ashfaq Ullah Khan s/o Aminullah Khan, and Mohd.Iftekhar Mohd.Sabir shall be released on bail on their executing a P.R.Bond in the sum of Rs.1.00 lac each with one solvent surety of the like amount each in connection with Crime No.115/2025 registered with the non-applicant/police station for offences under Sections 45, 49, 50, 61(2), 74, 76, 79, 109, 115(2), 117(2), 117(4), 118(1), 118(2), 121(1), 121(2), 125, 126(2), 127(2), 132, 135, 189,(2), 189(3), 189(4), 189(5), 189(9), 190, 191(2), 191(3), 192, 195(1), 195(2), 196(1), 197(1), 223, 296, 324(2), 324(3), 324(4), 324(5), 324(6), 326(F), 326(G), 351(2), 351(3), 352, and 353(2) of the Bharatiya Nyaya Sanhita read with Section 7 of the Criminal Law Amendment Act, and under Sections 3 and 4 of the Prevention of Damage to Public Property Act read with Section 3 of the Maharashtra Prevention of Defacement of Property Act and under Sections 3, 4, and 5 read with Section 25 of the Arms Act and under Sections 37(1) and 135 of the Maharashtra Police Act.

(3) The applicants shall attend the police station on 1st and 15th of every month and the investigating officer shall record their presence, till culmination of the trial.

(4) The applicants shall not indulge in the similar type of activities and one single registration of the crime of the similar nature would lead to cancellation of bail.

(5) The applicants shall not induce or threat or promise to any of witnesses connected with the crime in question and shall not tamper the prosecution evidence.

(6) The applicants shall attend proceedings before the trial on every date without seeking any exemption, unless there are exceptional circumstances.

Applications are **disposed of**.

(URMILA JOSHI-PHALKE, J.)

!! BrWankhede !!