



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

CRIMINAL APPLICATION (BA) NO. 1234 OF 2024

Rahim Khan Rasul Khan & Ors.

Vs.

State of Maharashtra, through PSO, P.S. Dhad, Dist. Buldhana

WITH

CRIMINAL APPLICATION (BA) NO. 1235 OF 2024

Moh. Azim Moh. Ayub Jamdar & Ors.

Vs.

State of Maharashtra, through PSO, P.S. Dhad, Dist. Buldhana

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

Court's or Judge's orders

Mr. Abhay Sambre, Advocate for the Applicants.
Ms. T.H. Udeshi, APP for the Non-applicant/State.

CORAM : G. A. SANAP, J.

DATED : 24th JANUARY, 2025.

. Heard the learned advocates for the parties.

2. The applicants, who are accused Nos.2, 3, 7, 15, 16, 19, 20, 22, 23, 24, 25 and 26, have made these applications for bail in Crime No.331/2024, registered with Police Station Dhad, District Buldhana for the offences punishable under Sections 326(f), 326(g), 189(2), 189(4), 191(2), 191(3), 190, 125, 324(4), 132, 121(1) of the Bharatiya Nyaya Sanhita, 2023 and under Section 135(i) and 37(2) of the Maharashtra Police Act, 1951.

3. Learned advocate for the applicants/accused would submit that the applicants were arrested in the night of 30th November, 2024. The main crime alleged to have been committed by them is mischief by fire to the property being the members of an unlawful assembly. Learned advocate would

submit that the learned Judge rejected their applications for bail on the ground that the investigation was at a nascent stage. Learned advocate would further submit that now 1 ½ months has rolled by. They have been remanded to magisterial custody. Their further detention is not necessary for custodial interrogation. They are ready to co-operate the Investigating Officer. It is also submitted that they are ready to abide by the conditions that may be imposed by the Court.

4. Learned APP would submit that, till date, the CCTV footage requested from HDFC Bank, Dhad, has not been received. The identification of the accused has not been established. The people of the Hindu and Muslim communities were involved in the incident. The possibility of the accused committing similar offence cannot be ruled out, if they are released on bail. The accused are likely to disturb the peace and tranquility.

5. I have gone through the record and proceedings. It is the case of prosecution that 26 accused formed the unlawful assembly. They quarrelled with the people of the Hindu community. They pelted stones at the people of the Hindu community as well as the police, who were present on the spot. They have caused the damage to the vehicles. It is apparent on perusal of the record that they were arrested in the night of 30th November, 2024. It is also apparent that there was a clash at a public place between the people of two communities. The people involved from the Hindu community were around 6 to 7. The accused were in large number. Initially, the accused were remanded to police custody. The request for collection of the

CCTV footage was made on 4th December, 2024 by the Investigating Officer. Till date, it has not been received. The Investigating Officer has not made any statement as to how much time it would take. The only ground put-forth is that in case they are released on bail, the possibility of the occurrence of the similar incident and thereby the breach of public peace and tranquility cannot be ruled out. Similarly, it is contended that, considering the fact that the charge-sheet has not been filed, the accused in case of their release on bail would tamper with the prosecution evidence.

6. It is to be noted that the majority of the witnesses are police officers. Similarly, the people from the Hindu community are also witnesses. Considering the nature of the offence alleged to have been committed by the accused and the stage of the investigation, I am of the opinion that no purpose would be served by keeping them behind bars. The apprehension put-forth by the learned APP can be taken care of by imposing appropriate conditions. In the facts and circumstances, I conclude that the accused have made out a case for grant of bail. Hence, the following order:

ORDER

- i] The applications are **allowed**.
- ii] The applicants/accused No.2 – Abid Khan Amanullah Khan, accused No.3 – Moh. Azim Moh. Ayub Jamdar, accused No.7 - Moh. Shohaib Moh. Naeem, accused No.15 – Sk. Ufaiz @ Hussain Sk. Sabir, accused No.16 – Sk. Sabir Sk. Basir, accused No.19 – Rahim Khan Rasul Khan,

accused No.20 – Saim Khan Rasul Khan, accused No.22 – Sultan Khan Lukman Khan, accused No.23 – Irfan Khan Luqman Khan, accused No.24 – Mohammad Razik Mohammad Yusuf, accused No.25 – Sk. Shakil Sk. Shabir and accused No.26 – Mirza Shehzad Beg Naeem Beg be released on bail in Crime No.331/2024, registered with Police Station Dhad, District Buldhana for the offences punishable under Sections 326(f), 326(g), 189(2), 189(4), 191(2), 191(3), 190, 125, 324(4), 132, 121(1) of the Bharatiya Nyaya Sanhita, 2023 and under Section 135(i) and 37(2) of the Maharashtra Police Act, 1951, on their furnishing P.R. bond in the sum of Rs.20,000/- (Rs. Twenty Thousand) each with one surety in the like amount.

iii] The applicants shall not, in any way, tamper with the prosecution evidence.

iv] The applicants shall not pressurize or threaten the prosecution witnesses.

v] The applicants shall attend the Police Station Dhad, District Buldhana every day between 7:00 p.m. and 9:00 p.m. till filing of the charge-sheet.

vi] The applications stand disposed of in the above terms.

(G. A. SANAP, J.)

Vijay