

**CORAM : SHRI S. U. BAGHELE,  
ADDITIONAL SESSIONS JUDGE,  
COURT ROOM NO. 09**

**DATE : 21<sup>st</sup> April, 2022**

**ORAL ORDER**

This is an application for the grant of anticipatory bail under section 438 of the Cr.P.C., in connection with C.R. No. 340 of 2022, registered with Malvani Police Station, for the offences punishable under sections 153, 153 (A), 141, 142, 143, 149, 188 of the Indian Penal Code and sections 37 (3) (10) and 135 of the Maharashtra Police Act.

2 Perused the application, the say filed thereon, the documents relied upon in support thereof.

3 Heard the learned counsel for the applicants and the learned Special Public Prosecutor for the State.

4 It is submitted by the learned counsel for the applicants that no harm was caused to the religious feelings of other community by the applicants. There was no assault or criminal force used by the applicants. Custodial interrogation is not required. There has been political intervention. Per contra, it is submitted by the learned Special Public Prosecutor that the offence is very serious, considering the effect thereof on the society. The prayer of other community was obstructed, by playing drums, by organizing the procession, by selecting the time accordingly. It was a provocation, to cause riot. The members of the particular community should have approached the Court of Law, if at all

they were affected by “ Ajan ”. It has to be investigated into, as to whether the crime was pre-planned, etc., for which custodial interrogation is necessary. Proper message must go to the public. He placed his reliance upon the following authorities :

**State Rep. By the CBI Vs Anil Sharma, in Appeal, decided by the Hon'ble Apex Court on 3<sup>rd</sup> September, 1997**, wherein it was observed by the Hon'ble Apex Court that custodial interrogation is qualitatively more elicitation oriented, than questioning a suspect, who is on anticipatory bail.

**Harshad S. Mehta Vs Union of India [ ( 1992) 94 BOMLR 789 ]**, wherein it was observed by the Hon'ble Bombay High Court that proper investigation is warranted, in respect of the offence against the State and its economy.

5 As per the say filed by the police, a religious procession was organized by one community. The applicants and others were the participants therein. The allegations levelled are to the extent that instigations were given to play drums in front of Mosque and drums were played, thereby affecting prayer and creating hatred amongst two different communities.

6 The nature of the allegations is such that the custodial interrogation of the applicants is not warranted at all. No purpose is going to be served, by interrogating the applicants, by taking them into custody. No slogans are said to have been raised by one community against another community, thereby directly instigating disharmony and creating hatred inter se two communities. In such scenario, the

applicants are entitled to anticipatory bail.

7 Before parting with, this court feels that it would not be out of place to throw some light on the existing scenario, as sought to be projected before this court, by the learned counsel for the applicants and the learned Special Public Prosecutor.

8 The rights guaranteed by Articles 14, 19 and 21 of the Constitution of India form the basic structure of the Constitution. It is the responsibility of the State to devise a mechanism, to ensure that the said rights are given effect to, in letter and spirit. It is the responsibility of the State to ensure that all steps are taken to promote fraternity among different communities. The State should not shun its eyes and close its ears, in respect of the situation prevailing in the society, resulting into disrespect by any person belonging to one community for other community. The promotion of fraternity is one of the goals, set forth in the constitution.

9 The State must focus on different facets of the scenario, which ultimately results into disharmony, and address the same in such a prudent manner, as to ensure that there shall be no interference by any one community into the religious feelings of any other community, so as to ultimately achieve the goal of fraternity, as sought to be promoted by the Constitution.

10 Thus, I proceed to pass the following order :

**ORDER**

- 1) The application for the grant of anticipatory bail is hereby allowed and it is hereby directed that in the case of arrest of the applicants **1) Vinod Babaji Shelar, 2) Sunil Narayan Koli** and **3) Deepak Raghunath Raorane**, in connection with C. R. No. 340 of 2022, registered with Malvani Police Station, for the offences punishable under sections 153, 153 (A), 141, 142, 143, 149, 188 of the Indian Penal Code and sections 37 (3) (10) and 135 of the Maharashtra Police Act, they be released on bail, on their executing PR Bonds of Rs. 15,000/- each (Rupees Fifteen Thousand Only), with one or more sureties in the like amount each, on the conditions that the applicants shall not tamper with the prosecution witnesses in any manner and shall co-operate with the investigating agency.
- 2) The concerned Police Station be informed accordingly.
- 3) Anticipatory Bail Application No. 499 of 2022 is hereby disposed of accordingly.

sd/-

(S. U. BAGHELE)

Additional Sessions Judge,  
Borivali Div., Dindoshi, Mumbai

Dt. 21/04/2022

Dictated on : 21/04/2022  
Transcribed on : 21/04/2022  
Signed on : 21/04/2022

CERTIFIED TO BE TRUE AND CORRECT COPY OF THE ORIGINAL SIGNED JUDGMENT/ORDER.”	
21/04/2022 at 5.47 p.m. UPLOAD DATE AND TIME	Mrs. S.B. Vichare NAME OF STENOGRAPHER
Name of Judge (with Court room no.)	HHJ Shri S. U. Baghele, City Civil & Sessions Court, Borivali Div., Dindoshi, Mumbai ( C.R.No. 09 )
Date of Pronouncement of JUDGEMENT/ORDER	21/04/2022
JUDGEMENT/ORDER signed by P.O. on	21/04/2022
JUDGEMENT/ORDER uploaded on	21/04/2022