

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
LD VC INTERIM APPLICATION NO. 185 OF 2020
WITH
LDVC BAIL APPLICATION NO. 211 OF 2019

Gaus Mohammed Shaikh & Ors. .. Applicants
Versus
State of Maharashtra .. Respondent

...

Mr. Jigar Agarwal with Shaikh Shafi Ahmed for the applicant.s
Mr.H.J. Dedhia, APP for the State.

CORAM: BHARATI DANGRE, J.

DATED : 12th JUNE, 2020.

P.C:-

1 The applicants, four in number, have been arraigned as accused in C.R. No. 207 of 2020 registered with Shivaji Nagar Police Station, Mumbai under sections 307, 353, 332, 141, 143, 144, 145, 147, 148, 188, 269 of the IPC and Sections 3(2)(e) of the Prevention of Damage to Public Property Act and Section 37(1) read with Section 135 of the Maharashtra Police Act has been invoked and applied.

2 The case of the prosecution is that on 26th April 2020 when a team of Police officers was engaged in road march in Govandi area, in order to take an overall view of the restrictions imposed in the wake of Covid-19 and its implementation, a mob of about 25 to 30 persons in an aggressive mood attacked the police personnel when they insisted on removal of the hawkers squatted on

the footpaths with their wares. They vandalized with the aim of impairing the police personnel from discharging their lawful duty.

3 It is alleged that persons in the mob struck by pelting stones and bricks on the police and police vehicles and this resulted into destruction of one of the police van. The FIR identifies certain persons who instigated the mob and one person named Nadeem Ismail Shaikh has been named as the one who pelted stones at the police mob. The other persons who threw the mask as well as assaulted by iron road has been described to be a person aged 22 to 25 years with certain physical description being cited.

4 The case of the applicants is to the effect that they have been arrested only because they fall in the age category of 22-25 years and are residents of the said locality. The learned APP, submit that the entire conduct of the mob was shameful and they attempted to assault the police personnel who were engaged in their official duty and who are rather putting their life to risk in the situation of Covid Pandemic to keep the citizens safe and free of Covid.

5 No doubt, the incident is unfortunate in the present scenario and the fact that several such incidences and occurrences are being reported in the entire country cannot be lost sight of. However, the arrest of the present applicants merely on the basis of an age description of the accused approximately between 22 to 25 years and no identification parade or any concrete evidence being collected by Investigating Agency to establish that the applicants are the accused who participated in the incident of assaulting the police personnel and

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the police vehicle makes them entitle for the benefit of doubt.

6 It is also informed by the learned APP that two of the applicants who were tested positive for Covid-19 and were admitted in the hospital and after appropriate medical treatment have now tested negative. Though the applicants are entitled for the benefit of doubt, the alleged act of the policemen being attacked apparently while trying to enforce the corona virus induced lock-down need to be tackled on a serious note. The applicants should be made to bear the consequences of assaulting the police team and causing interruption in discharge of their official duty. The applicants, however, cannot be incarcerated in infinity since they have been arrested on 26th April 2020 and are behind bars almost for a period of more than one month and this is a sufficient punishment for them to be responsible citizens. They are entitled to release on bail with a stipulation that they must deposit an amount of Rs.5,000/- in the Chief Minister's Fund on their immediate release, which amount would contribute for the measures taken by State for treatment of Covid-19 patients.

Failure to do so would result into recalling of the said order releasing them on bail.

8 Hence, the following order :-

ORDER

(i) The applicants are directed to be released on bail on furnishing P.R. Bond in the sum of Rs.10,000/- with one or two sureties in the

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like amount. However, they are entitled for temporary release on submitting cash bail of Rs.10,000/- each with the Jail Superintendent and furnish sureties in the tune of Rs.10,000/- each within a period of six weeks from their release.

(ii) On their release, an amount of Rs.5,000/- each be deposited in the CM Relief Fund within six weeks.

(iii) They shall not leave the City of Mumbai without prior permission of the Court and shall report to the police station as and when called.

(iv) They shall keep the Shanti Nagar Police Station informed about any change in his address and also supply their mobile number to the said police station.

(v) They shall not tamper with the prosecution witnesses.

All parties are directed to act on the downloaded copy supplied by the Advocate under his seal and signature.

SMT. BHARATI DANGRE, J