


MHNS070004232022 	<b><u>Order Below Exh. 252 in Sessions</u></b> <b><u>Case no. 44 of 2022</u></b>  The State of Maharashtra Vs. Mohd. Yusuf Mohd. Illiyas and Ors.
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1. Vide present application under section 91 and 483 BNSS, accused **Mohd. Yusuf Mohd. Illiyas, Tanveer Ahmed Zulfekar Ahmed** and **Dr. Arshad Mohd. Yusuf Illiyas** seek bail under **CR. no. 75/2021** registered at **Malegaon City Police Station** under sections 307, 395, 353, 332, 333, 143, 144, 147, 148, 120B, 427, 186, 153, 153A, 153B readwith section 149 of the Indian Penal Code alongwith sections 3 and 4 of the Police (Incitement to Disaffection) Act, 1922; alongwith sections 37(1)(3) with section 135 of the Maharashtra Police Act, also alongwith sections 3(2) of the Prevention of Damage to Public Property Act, also under sections 83(2) and 87 of the Juvenile Justice (Care and Protection of Children) Act and also under section 7 of the Criminal Law (Amendment) Act.

2. Ld. advocate for the accused vehemently submits that these three applicants accused are not named in the FIR but implicated later on, inspite of their no role in the said occurrence. Submitted that per FIR, mob was of about 1000-1500 persons. Further submitted that applicant-accused Mohd. Yusuf Mohd. Illiyas's name is in FIR, but accused Tanveer Ahmed Zulfekar Ahmed's name has been included in the concluding part of the FIR, without assigning any role to him. Also stated that Dr. Arshad Mohd. Yusuf Illiyas is not at all in the FIR.

3. Further submitted that accused Mohd. Yusuf Mohd. Illiyas, was office bearer of the Raza Academy and they decided to hold demonstration and protest against the rally conducted by the VHP.

Further submitted that these accused only intended to hold a protest rally. Further submitted that however some people turned violent, resulting into arson near Hussain compound. Further submitted that infact accused Mohd. Yusuf Mohd. Illiyas, went with the police to pacify the mob and to control the situation; but he is arrayed as an accused. Submitted that about 11 organisations joined the rally, but allegations are against this accused Mohd. Yusuf Mohd. Illiyas, to have conspired and instigated the crowd. Submitted that as these accused were never part of the violent mob, therefore, nothing could be recovered by them.

4. Also submitted that investigation is completed, Charge-sheet is filed against present accused. Also submitted that statements of all witnesses are stereo-types. Also submitted that even otherwise all injuries to the complainant and other witnesses are mere simple injuries' therefore, it cannot be a case of attempt to commit murder, therefore any case under section 307 Indian Penal Code, cannot be made out. Also submitted that the CCTV footages gathered in the investigation does not show the presence of these accused at the spot.

5. Also submitted that these accused preferred anticipatory bail application before the Sessions Court and that was rejected, therefore anticipatory bail applications were preferred by these accused before the Hon'ble High Court, Bombay. Submitted that these accused Mohd. Yusuf Mohd. Illiyas preferred ABA nos. 1234 and 1254/2022, before the Hon'ble High Court, Bombay, and Dr. Arshad Mohd. Yusuf Illiyas and Tanveer Ahmed Zulfekar Ahmed had preferred ABA no. 1119/2022, respectively in which all these applicant accused are protected by grant of interim anticipatory bail, vide orders dated

11.05.2022 and 25.04.2022 respectively. Also submitted that vide common order dated 04.07.2025, Hon'ble High Court, Bombay, disposed of the anticipatory bail applications, with liberty to the accused to appear before the trial court and seek regular bail. Also submitted that the Hon'ble High Court has directed the trial court to be sensitive to the protection enjoyed that accused enjoyed for a period of last three years. Accordingly, seeks bail.

6. Bail application is resisted by filing objection at Exh. 254 and the Ld. APP vehemently submitting that these accused were the members of unlawful assembly, pelting stones on the police, assaulted the police and even snatched money from complainant's pocket. Further submitted that accused even attempted to snatch police gun.

7. Further submitted that all the accused members of unlawful assembly pelted stones, raised slogans in the manner to disrupt peace and harmony across religions. Also submitted that accused damaged public properties, vehicles accordingly, caused loss to others' properties. Also submitted that offence committed affected and disrupted the social fabric in the society. Further, submitted that as yet some accused are absconding, they are to be traced, arrested and in case these accused are granted bail, possibility of absconding accused unable to be traced and arrested, pressurising the complainant and the witnesses, tampering evidence, hampering trial, protracting trial cannot be ruled out. Accordingly, resisted the bail application.

8. Upon perusing the bail application, objection filed, copies of orders passed by Hon'ble High Court, Bombay, and hearing Ld. APP as well as the Ld. Advocate for the accused, it appears that on

12.11.2012, at about 03:00 p.m., pursuant to alleged criminal conspiracy hatched by some members of Raza Academy, a mob sharing similar ideology gathered, became violent, upon instigating slogans by mob leaders, pelted stones on police and their vehicles, damaged public and private properties. Police on duty, at the spot of demonstration were assaulted and injured. The mob went violent, resulting into arson near the Hussain Compound, Saheed Tower, Dudh Baazar on Old Agra Road and even at an under-construction pool on Old Agra Road. Allegations against the accused are of delivering speech and making slogans instigating people to react violently resultantly, damaging public, private and government vehicles and properties, assaulting police and other passerby people.

9. However, while granting interim protection to accused Mohd. Yusuf Mohd. Illiyas, vide order dated 11.05.2022, passed in Anticipatory Bail Application nos. 1233/2022 and 1254/2022, it was observed by Hon'ble High Court, that this accused was not present at the spot and time, the mob turned violent and berserk. Accused Arshad Mohd. Yusuf Illiyas and Tanveer Ahmed were granted interim protection by the Hon'ble High Court, Bombay, vide order dated 25.04.22 passed in Anticipatory Bail Application no. 1119/2022, observing that pre-arrest protection has been granted to one of the co-accused in Anticipatory Bail Application no. 1104 of 2022.

10. Thereafter, vide common order dated 04.07.2025, passed in above mentioned and other anticipatory bail applications, observing that Charge-sheet been filed against these accused, they being granted ad-interim protection, liberty was granted to them to appear before the trial court and seek regular bail. Said order also directed the trial court

while dealing the bail prayer to be sensitive to the protection these applicant-accused enjoyed for a period of last 3 years.

11. It would be pertinent that upon interim protection granted, accused directed to attend the concerned police station under investigation, the police say does not whisper of breach of the conditions set in those interim protection orders passed by the Ld. High Court. Thus, it appears that accused co-operated in investigation. Further, Charge-sheet is now filed against these accused-applicants. Nothing is borne on record to demonstrate the steps taken to trace and arrest the required co-accused. It is settled position that mere non-availability of co-accused cannot be a ground to deny bail to another accused present before the investigation agency. Considering, limited roles attributed, FIR about to be 4½ years old, substantial investigation been completed, it appears that now, no part of further investigation requires custodial presence of any of these accused. Also, considering the observations of the Hon'ble High Court, in the anticipatory bail applications of these accused, it appears that accused, ought to be granted bail. However, apprehensions raised and presence and co-operation of these accused in remaining investigation ought to be ensured. Hence, the following order. :-

### **ORDER**

[1] Applicants-accused **Mohd. Yusuf Mohd. Illiyas, Tanveer Ahmed Zulfekar Ahmed and Dr. Arshad Mohd. Yusuf Illiyas** be released on bail, in connection with **C.R. no. 75/2021** registered at **Malegaon City Police Station**, upon his furnishing his P.R. Bond of Rs. 25,000/- (Rs. Twenty-Five Thousand only) each with one or more surety of like amount, on the following conditions that.:-

(a) applicants/accused shall attend the concerned police

station, as and when called by the Investigating Officer.

**(b)** applicants/accused shall not communicate with the complainant or any witnesses and also shall not tamper the prosecution evidence, in any manner.

Date : 22.04.2026

**(Y. H. Ameta)**  
Additional Sessions Judge,  
Malegaon.