



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO (L). 26803 OF 2024

Zahid Khamisa.

... Petitioner

Versus

The State of Maharashtra & Anr.

... Respondents

Mr. Prasanna A. Bhangale, for the Petitioner.

Ms. Prajakta P. Shinde, APP, for the Respondent-State.

Mr. Vinayak Vinal, Senior Police Inspector, Mahim Police Station.

CORAM : SHIVKUMAR DIGE,
ADAVIT M. SETHNA, JJ.

DATE : 24th DECEMBER 2024
(Vacation Court)

P.C:-

1. By this petition the petitioner has challenged the impugned notice issued by Senior Police Inspector, Mahim Police Station, Mumbai and Mahim Traffic Division, Mumbai dated 23 December 2024. The petitioner is a proprietor of the firm known as Angel Land, Agripada. The petitioner through his firm runs his amusement rides and activities at Mahim Mela, Reti Bunder, Mahim, Mumbai since 1986. The petitioner has obtained the requisite permission from the authorities, to include premises

license issued by Commissioner of Police, Mumbai. The same is valid from 14.12.2024 till 25.12.2024. The petitioner has been issued a fire NOC dated 12.12.2024, which is valid until 25.12.2024.

2. The petitioner is directed to discontinue/stop the Mela on 24 December 2024 and 25 December 2024 due to traffic congestion in that area by the impugned notice dated 23 December 2024, which is challenged in this petition. It is the contention of learned counsel for the petitioner that the Mahim Mela has been running since 1901. The petitioner and several others run their shops and amusement rides at the Mahim Mela. The same has been running peacefully since many years without any untoward incident. The petitioner last night received the notices including impugned notice dated 23 December 2024, which is subject matter of the present petition. The petitioner was shocked and surprised to read the contents of the notice, which state a reason of traffic and Christmas celebration, as a reason to abruptly stop the Mela.

3. The learned counsel further submitted that there is

no justifiable reason to stop the Mela hence requested to allow the petition.

4. The learned APP vehemently submitted that the Mahim Mela is situated on the right side of the road and due to traffic congestion in that area it halts traffic and people in the said area are thus suffering. The notice issued to the petitioner is as per law. Hence prayed for dismissal of the Writ Petition.

5. We have heard both the learned counsel for the parties and perused the impugned notice. In the impugned notice, it is mentioned that on 25 December 2024 there is Christmas and due to Christmas, people belonging to Christmas community will gather in larger numbers at the Chruch and any untoward incident could happen. It is also mentioned that there is traffic congestion due to said Mela. While it appears that premise license No. 42 of 2024 dated 5 December 2024 is granted to the petitioner by Senior Police Inspector on behalf of Commissioner of Police and the reason for cancellation mentioned is that if any complaint received from public, such licence would be cancelled or revoked. In the said impugned notice, there is no mention

about any complaint received from the public. Only apprehension of the respondent is that there would be traffic congestion. This cannot be a ground to cancel permission as it is the duty of respondents to manage the traffic congestion by appointing extra staff. Such Melas/events form a part of the social fabric in which the people of all the sections participate. Their participation and enjoyment cannot be deprived by such sudden/abrupt notice as it is being celebrated since more than 100 years. Thus, in view of the above, we pass the followed order:-

ORDER

- A. The petition is partly allowed.
- B. The impugned notice dated 23 December 2024 issued against the Petitioner by Mahim Police Station, Mumbai and Mumbai Traffic Division, Mumbai is quashed and set aside.
- C. The petitioner shall cooperate to the respondent authorities.
- D. The petitioner can open/operate their stall and rides.
- E. Disposed of in above terms.

[ADAVIT M. SETHNA]

[SHIVKUMAR DIGE, J.]