

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.1247 OF 2021

VLJAY @ KALBA RAMBHAU GAIKWAD)...APPLICANT

V/s.

THE STATE OF MAHARASHTRA)...RESPONDENT

Mr.Shekhar Ingawale, Advocate for the Applicant.

Smt.Anamika Malhotra, APP for the Respondent – State.

CORAM : V. G. BISHT, J.

**RESERVED ON : 15th NOVEMBER 2021
PRONOUNCED ON : 22nd NOVEMBER 2021**

P.C. :

1 The present application has been moved by the applicant under Section 439 of the Code of Criminal Procedure in Crime No.760 of 2018 registered with Police Station Shahupuri, Kolhapur, for offences punishable under Section 307, 353, 332, 333 of the Indian Penal Code (IPC) and under Section 3, 25(1), 7, 27 of the Arms Act.

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2 It is the case of the prosecution that on 6th December 2018 the informant came to know that applicant who is an extortionist had come to his in-law's house at Mahadik Vasahat and therefore, he along with staff members went there to apprehend him. It is alleged that, however, the applicant resisted his arrest and further in order to avoid his arrest took out his pistol and fired at police officials. The First Information Report (FIR) came to be registered accordingly.

3 Mr.Ingawale, learned counsel for the applicant, submits that it is not the case of prosecution that in the alleged fire, any of the police personnel sustained injury. The learned counsel invited my attention to the extract of complaint of Dr.Girish Kamble of CPR Hospital, Kolhapur, wherein the details are given to the effect that when the Local Crime Branch Police had been to Mahadik Vasahat to apprehend the absconding accused, the patient i.e. the applicant namely Vijay @ Kalba Rambhau Gaikwad entered into a scuffle, fired from his pistol and got injured. Thus, it goes to show that it was the applicant

who got injured and not the Police Officer. According to the learned counsel, the applicant is behind bars since last 3 years and there is less possibility of the trial completing in the near future. In such circumstances, he deserves to be released on bail.

4 Smt.Malhotra, learned APP, on the other hand, opposed the submissions by contending that there are statement of eye witnesses wherein it is clearly stated that the applicant, in order to make his escape good, fired from his pistol at police officials and thus attempted to kill them. There being no merit in the application, the same is liable to be rejected.

5 Perused the FIR and investigation papers and as also statement of witnesses. Amongst the statements of police personnel there is statement of one Tanaji Krishna Avghade, who is a relative of applicant. His statement like others also shows that the applicant had fired from his pistol but it did not hit any of the police officials. Having regard to the material on record and the fact that the applicant himself was injured in the

incident, coupled with the fact that there is no possibility in near future of the completion of trial, it is desirable that the present application be considered favourably.

6 In view of this, I pass the following order :

ORDER

- (i) Applicant – Vijay @ Kalba Rambhau Gaikwad shall be released on bail in Crime No.760 of 2018 registered with Police Station Shahupuri, Kolhapur, on his executing PR.Bond in the sum of Rs.25,000/- with one or two sureties in like amount.
- (ii) The applicant shall not tamper with prosecution evidence.
- (iii) The applicant shall attend the concerned police station as and when called by the Investigating Officer.
- (iv) Parties to act on copy of this order duly authenticated by the Sheristedar of this Court.

(v) Bail before trial Court.

(vi) The application is allowed in the aforesaid terms and stands disposed off accordingly.

(V. G. BISHT, J.)