

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO.2932 OF 2021**

Jaykumar Subhash Kulkarni & Anr. .. Applicants

Vs.

The State of Maharashtra .. Respondent

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Mr. Sachin R. Pawar for the applicants.

Mr. S.H. Yadav, A.P.P. for the State.

Mr. S.S. Gilbile, HC., Khed Police Station is present in the court.

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CORAM : SMT. BHARATI DANGRE, J.

DATED : 04TH DECEMBER, 2021.

P.C:-

1. This is the second bail application moved by the applicants, since the earlier bail application was rejected by me on 16/10/2020, recording that the roles of to applicants have clearly surfaced and they were identified by the complainant as the persons who chased him on the Pulser motorcycle and, out of

AJN

which, the first applicant had fired from the pistol whereas, the second applicant was driving the motorcycle.

2. The reasons which prompted the applicants to file the present application is the ballistic report obtained from the Directorate of Forensic Science Laboratories on 01/01/2021. This is a report in respect of a country made pistol in Ex-1 which as per the prosecution is recovered from one Omkar Gunjal, who came to be arrested in C.R. No.50 of 2020 registered with MIDC Police Station, Ahmednagar. The prosecution projects that the empty cartridges, which were recovered from the spot were fired from the said pistol. Resultantly, the said exhibits were forwarded for analysis and the result of the analysis reveals that the cartridges were not fired from the country made pistol (Ex-1) received from the MIDC Police Station, Ahmednagar and the report states that the cartridges have been fired from another firearm.

3. In the wake of the aforesaid development since the case of the prosecution hinges upon the cartridges recovered from the spot being fired from the country made pistol, which is alleged to have been recovered in another C.R. and the prosecution's claims that applicant No.1 has handed over the pistol to Omkar Gunjal and also the complainant has identified the applicant Nos.1 and 2 as the persons, who fired from the pistol with an intention to eliminate him, the case of the prosecution does not

appear to be a probable case.

4. In any case, the application of the present applicants was rejected by me in the earlier ground on the basis that the complainant had identified the two applicants as the persons, who had fired at him and even the cartridges were recovered, though after a period of seven days. However, in the wake of ballistic report, now I am inclined to release both the applicants on bail. Learned A.P.P. states that as far as applicant No.1 is concerned, he has certain antecedents to his credit alleging offences punishable under Section 379 of the IPC as well as Sections 399 and 402 of the Arms Act. The apprehension expressed is that the applicants are likely to abscond. This apprehension can be taken care of by directing the presence of the applicants in the police station at regular intervals. Hence, the following order:

: ORDER :

- (a) The applicants – Jaykumar Subhash Kulkarni and Akash Eknath Desale, shall be released on bail in C.R. No.34 of 2020 registered with Khed Police Station, District Pune on executing P.R. bond to the extent of Rs.25,000/- each and furnishing one or two sureties of the like amount.

- (b) The applicants shall not directly or indirectly make any inducement, threat or promise to any person acquainted with facts of case and shall not tamper with prosecution evidence.
- (c) The applicants shall mark their presence in Shikrapur Police Station once in every fortnight and also submit their contact numbers and addresses of residence to the in-charge of the said police station.
- (d) The applicants shall not enter the jurisdiction of Khed Police Station, Pune.

5. The bail application is allowed in the aforestated terms.

6. Needless to state that any failure on the part of the applicants to adhere to the aforesaid conditions, the prosecution is given liberty to move for cancellation of bail.

7. All parties are directed to act on the downloaded copy of the order supplied by the advocate under his seal and signature.

[SMT. BHARATI DANGRE, J.]