

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

BAIL APPLICATION NO.1605 OF 2021

AMOL @ GANESH S/O ANNASAHEB GAIKWAD
VERSUS
THE STATE OF MAHARASHTRA

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Advocate for Applicant : Mr. P.P. More
APP for Respondents/State : Mr. A.V. Deshmukh

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CORAM : M.G. SEWLIKAR, J.
RESERVED ON : 17th February, 2022
PRONOUNCED ON : 16th March, 2022

ORDER:-

This is an application under Section 439 of the Cr.P.C. for releasing the applicant on bail in connection with Crime No. 341/2019 registered with MIDC Latur Police Station, District Latur under Section 302 read with Section 34 of the I.P.C. and under Section 3, 27 of the Arms Act.

2. Prosecution case in brief is that informant Vikas @ Yuvraj Mannade is the brother of Rahul Yuvraj Mannade (since deceased).

3. It is the prosecution case that deceased-Rahul Mannade and applicant Amol @ Ganesh Annasaheb Gaikwad were friends. On 24th September, 2019 at 9.00 pm to 9.15 pm applicant, his friends Avishkar Thorat, Sandip Mohite, Rishikesh Channagire, Akash Swami, Rahul Mannade and

applicant had stopped at a pan shop. Rahul asked applicant as to whether there was any liquor in the boot of his car and started checking the car. Father of the applicant was an Army Officer. His cap was there in the boot of the car. Rahul Mannade dropped the cap on the ground. Applicant did not like it and he chastised Rahul Mannade not to mess with the cap of his father. An altercation ensued between applicant and Rahul. Friends of applicant and Rahul separated them and both of them went their ways.

4. A little while later applicant called up witness Sushil Patil to tell him that applicant had accidentally fired a bullet at Rahul Mannade and he had been injured because of the firing. Applicant asked witness Sushil Patil to come to his house so that Rahul Patil could be taken to the hospital. Witness Sushil Patil and other friends went to the house of the applicant and found applicant holding the gun. Rahul was lying on the floor. He was shifted to the hospital. During treatment Rahul died. Accordingly, informant was informed about the incident by the witnesses. Informant went to the hospital. However, Rahul died during treatment. Hence, the FIR came to be lodged under the aforesaid sections.

5. Heard learned counsel Shri More for the applicant and Shri Deshmukh learned APP for the State.

6. Learned counsel Shri More submitted that both applicant and Rahul were friends. Incident started because of the action of Rahul. He was checking the boot of the car of the applicant. The boot of the car contained the cap of the father of the applicant. Applicant has great respect for the uniform of his father and cap is a part of the uniform. Rahul dropped the cap on the ground which did not go down well with the applicant. There was altercation between the applicant and Rahul. He further submitted that after incident was over, Rahul had been to the house of the applicant. Gun was hanging on the wall. Rahul tried to pick up the gun and a scuffle followed between the applicant and Rahul in which bullet was accidentally fired and it hit Rahul on chest. He further submitted that post event action of the applicant goes to show that applicant did not have any intention to commit murder of the deceased-Rahul. He submitted that applicant immediately informed all his friends about the accidental injury by bullet to Rahul and that Rahul should be immediately shifted to the hospital. He submits that this action on the part of the applicant clearly shows that there was no intention on the part of the applicant to commit the murder of the deceased. He submitted that applicant is 27 years of age. He is taking education. If he is not released on bail his entire career will be ruined. He, therefore, seeks release of applicant on bail.

7. Learned APP Shri Deshmukh submits that bullet was fired from close range. Applicant had the requisite intention to commit the murder of the deceased. Otherwise there was no reason for him to pick up the gun which was hanging on the wall. He submits that for all these reasons applicant does not deserve to be released on bail.

8. Charge-sheet is filed. From the statements of the witnesses it is clear that applicant and Rahul were friends. The incident started because of the cap which was dropped by Rahul while checking the boot of the car. An altercation followed between the applicant and Rahul. Both of them were separated by friends. The statement of the witnesses show that after the quarrel was over, both applicant and Rahul went to their respective homes. It further appears from the statement of witnesses i.e. Sushil Patil, Sandip Mohite, Avishkar Thorat that Rahul was called by applicant and his father to the house of the applicant. Thereafter, the incident took place. In addition to this, statements of these witnesses show that Rahul in his oral dying declaration stated that applicant fired bullet at him. Therefore, it appears that there was intention on the part of the applicant to commit the murder of the deceased. Therefore, I am not inclined to release the applicant on bail. Hence, the application is dismissed.

9. These observations are made only for the disposal of this application and the learned trial Court shall not get influenced by these observations and can come to its independent conclusion during trial.

[M.G. SEWLIKAR, J.]