

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 627 OF 2022

Rushikesh Rajendra Wadekar .. Applicant
Versus
State of Maharashtra .. Respondent

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Dr.Uday P. Warunjikar i/b Jyotiram S. Yadav for the applicant.
Mr. Y.Y. Dabake for the respondent State.
API Shri K.P. Lad from Khed police station.

CORAM: BHARATI DANGRE, J.
DATED : 28th MARCH, 2022

P.C:-

1 The present application is filed for the second time, the first being permitted to be withdrawn on 26/8/2021.

 The change in circumstance, which justify filing of the second application is the order passed in case of co-accused Hemant @ Siddharth @ Omkar Ananda Oval on 9/2/2022 (Criminal Bail Application No.3565/21) where *prima facie* it is recorded that the case is based on circumstantial evidence and there is no eye witness available nor there is any recovery of any incriminating material and absence of identification parade

persuaded this Court to release the co-accused on bail. While claiming parity with the co-accused, the material available on record as compiled in the charge-sheet, is again perused.

2 The statement of Meghraj Rajendra Sawant and Sainath Jawahar Dhambale, which is compiled in the charge-sheet, speak of the last seen theory when on 7/8/2020 at around 5.30 p.m, the witness was confronted with the present applicant who was followed by six other boys on two vehicles, and who took out the weapons from their respective vehicles. The role attributed to the applicant by the said two witnesses, is quite distinct from Omkar Oval, who is also alleged to be a part of the conspiracy. However, since the two witnesses have clearly referred to the applicant in respect of the incident which took place in a healing area at the end of the village, the applicant is not entitled to claim parity. On being confronted, the learned counsel Mr.Warunjikar, on instructions, state that he shall be permitted to withdraw the Bail Application.

3 The only concern expressed by him warrant attention being, the applicant is a young boy of 23 years, pursuing his education and he came to be arrested on 9/8/2020 in the concerned C.R and since then, he is incarcerated.

Since charge-sheet is filed in the said C.R, on 6/11/2020, but till date, it is informed that the charge is not framed, reserving the liberty to the applicant to move this Court

for being released on bail if the charge is not framed within the period of one year.

4 Application is permitted to be withdrawn and stands disposed off.

(SMT. BHARATI DANGRE, J.)