

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO.1095 OF 2022**

(Modified as per order dated 15/09/2022)

Umesh Parshuram Bhoir	.. Applicant
Versus	
The State of Maharashtra	.. Respondent

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Mr. D.S. Mhaispurkar i/b Mr. Sameer M. Mangaonkar for the Applicant.

Ms. A.A. Takalkar, A.P.P. for the State/Respondent.

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**CORAM: BHARATI DANGRE, J.
DATED : 8th SEPTEMBER, 2022**

P.C:-

1. The applicant is charge-sheeted for the offences punishable under sections 8 (c), 20, 22(c) along with 25(4) of the Arms Act in CR No. 338 of 2021, which was registered with Kashimira Police Station on 18/04/2021.

The offence also invoke section 399 of IPC, but the applicant is not charged with under the said section.

2. The prosecution case is, that information was received by Anti Narcotic Cell, Meera Bhayandar, Vasai Virar, Police Commissioner, Mira Road that about 4 to 5 persons being attempting to commit the robbery and accordingly a trap was

laid and 5 persons were noticed walking on the highway in suspicious circumstance. On noticing the persons of Anti Narcotic Cell, they attempted to run away and three persons were apprehended. Two persons, who fled away from the spot, drop their swords and therefore the offence under section 399 is invoked.

3. On completion of the investigation, the charge-sheet reflect that accused no. 1 to 3 had conspired to commit dacoity and prepared themselves by procuring dangerous weapons. During their search, Mephedron was also recovered and therefore proceedings under NDPS Act were followed and offence under NDPS Act was registered.

As far as the present applicant is concerned he is accused of being supplier of the said contra band to accused no. 1 to 3.

4. When the learned APP is asked to point out the material to that effect compiled in the charge-sheet, she would submit that the connection was established between the present applicant and accused no.1 Sandeep Nagare. She state that CDR is compiled in the charge-sheet .

5. The learned counsel for the applicant however submit that the alleged offence took place on 18/04/2021, as the raid was conducted on 18/04/2021, whereas the communication between the applicant and accused no.1 is ranging from the period from January to 16 March, 2021, and after that there is no telephonic contact between them.

The learned counsel for the applicant would submit that

the only other material against him is the statement of the co-accused. He would further submit that there is no further material against him in the charge-sheet except the case of the prosecution that it is on the basis of the statement of the co-accused, who alleged that the contraband was supplied by the present applicant, he is arraigned as accused and charge-sheeted.

The counsel for the applicant has placed on record an order dated 20/08/2022, by which co-accused Suryakant Karalkar is released on bail in Bail Application No. 3244 of 2021.

6. I find sufficient justification in the aforesaid arguments and though the applicant may take consequence of his act while he is tried, his further incarceration is unnecessary. The learned APP when specifically asked, state that, there are no antecedents attributed to him.

In the wake of the above he deserves his release on bail.

7. Needless to state that the observations made above are, *prima facie*, in nature and limited to the extent of adjudication of the present application and the learned Judge trying the applicant for the offences with which he is charged, shall not get influenced by the above observations in any manner.

Hence the following order:

: **ORDER** :

- (a) Application is allowed.
- (b) Applicant - Umesh Parshuram Bhoir shall be released on bail in connection with C.R.No.338 of 2021 registered with Kashimira Police Station on furnishing P.R.

Bond to the extent of Rs.25,000/- with one or two sureties in the like amount.

(c) The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing the facts to Court or any Police Officer. The applicant shall not tamper with evidence.

(d) The applicant shall mark his attendance to the concerned police station on first Monday of the Trimester till framing of charge.

(e) The applicant shall furnish, his current address of residence and the contact number and keep intimating the Investigating Officer, in the event of any change.

(SMT. BHARATI DANGRE, J.)