

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO.1816 OF 2023

Rahul Kalyan Rathod Applicant

Versus

The State of Maharashtra Respondent

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Mr. Laxman B. Dhas, Advocate for Applicant

Mr. S.B. Narwade, APP for Respondent–State

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[CORAM : S. G. CHAPALGAONKAR, J.]

DATE : 19th OCTOBER, 2023

ORDER :

1. The applicant seeks regular bail in connection with Crime No. 402 of 2023 registered with Gangapur Police Station, District Aurangabad for the offences punishable under sections 304 of the Indian Penal Code and sections 3/27, 7 of the Arms Act.

2. Investigation was set in motion on the basis of the complaint of Rahul Yuvraj Pagare, who state that one Rahul Wankhede informed Gangapur Police Station that he heard noise of firing from the building. In response to the said information, police rushed to the spot. They found that Rahul Wankhede was present. He shown the building from where he heard the gun shots. On inquiry, it was revealed that Rahul Rathod (applicant) resides in the rented house owned by Navnath Kharad at first floor of the building. On further inquiry, it is revealed that Rahul Rathod accidentally fired a bullet from unbranded pistol, which hit his son aged about 2 years. On search of the house in presence of *panchas* an unbranded pistol, magazine with two bullets and cartridges of

fired bullet came to be seized. It is further revealed that the child succumbed to injuries of bullet. Accordingly, Crime No.402 of 2023 came to be registered against the applicant for the offences punishable under sections 304 of the Indian Penal Code and sections 3/27, 7 of the Arms Act. The applicant has been arrested on 26.08.2023 and since then, he is behind the bars.

3. Mr. L.B. Dhas, learned advocate appearing for the applicant would submit that the friend of the applicant had handed over unbranded pistol to him, and as such, it was temporarily kept in his possession. Accidentally, the bullet was fired causing death of his son. He would submit that it is sheer accident. The applicant himself is a loser from the incident in the sense that he lost his only son. He would submit that the wife of the applicant is alone, and in grief of her son. The investigation is practically over, and further detention of the applicant would not be necessary.

4. Learned A.P.P. strongly opposes the prayer for grant of bail. He would submit that the applicant was found in possession of the unlicensed firearm. Further, he is responsible for death of the son. There is sufficient material to make out the offences alleged against the applicant. Hence, he urges to reject the application.

5. Having considered the submissions advanced, apparently, there was accidental fire of the pistol resulting to death of son of the applicant. Although the question as to whether the applicant has committed any offence punishable under the Arms Act, is to be determined in the Trial, the applicant himself appears to be victim of the accidental fire in

the sense, he lost his only son. The investigation in the matter is practically over. Further detention of the applicant would not be necessary. In that view of the matter, case is made out for grant of bail. Hence, the order.

O R D E R

- (i) Bail Application is hereby allowed.
- (ii) The applicant – RAHUL KALYAN RATHOD be released on bail in connection with Crime No. 402 of 2023 registered with Gangapur Police Station, District Aurangabad for the offences punishable under sections 304 of the Indian Penal Code and sections 3/27, 7 of the Arms Act on his furnishing P.B. & S.B. of Rs.50,000/- (Rupees Fifty Thousand), on the following conditions :-
 - [a] The applicant shall not tamper the prosecution evidence.
 - [b] The applicant shall visit the concerned police station once in a week i.e. on every Sunday between 10 am to 2 pm till filing of the charge sheet.
 - [c] The applicant shall co-operate in case of further investigation in terms of section 173 (8) of Criminal Procedure Code.
- (iii) Bail application is accordingly disposed of.

[S. G. CHAPALGAONKAR]
JUDGE

S.P. Rane