

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

9 BAIL APPLICATION NO.2109 OF 2023

VAIBHAV MUKUNDRAO KAPALE
VERSUS
THE STATE OF MAHARASHTRA

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Advocate for Applicant : Mr. Awale Girish L.
APP for Respondent : Ms. P. J Bharad

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CORAM : S. G. CHAPALGAONKAR, J.
Dated: December 08, 2023

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PER COURT :-

1. The applicant seeks regular bail in connection with Crime No.630 of 2023 registered with Kaij police station, Tq. Kaij, District Beed for the offences punishable under sections 307, 353, 186 r/w 34 of the Indian Penal Code, u/s 3/25 of the Indian Arms Act.

2. Investigation has been set in motion on the basis of the information given by one Dilip Gitte, employed as police Naik. It is further alleged that on 20.10.2023 police had received the secret information that accused Sunny Sham Athavale and his brother Akshay Sham Athavale are involved in dealing with unauthorized firearms i.e. unbranded pistol and they are coming towards Beed from Aurangabad in a swift car bearing registration No.MH-16/BH-3136. It is further alleged that at about 16.30 hours the aforesaid car came from Georai. Police chased the car and intercepted it. Police persons attempted to arrest them, however, the car driver

raced his car with intention to crush the police persons, however, they escaped, car brushed to an iron board and then toppled. The persons travelling in the car attempted to ran away, however, they fall in the ditch and suffered injuries. Police party apprehended them. Accused Akshay Athavale had the revolver in his possession that has been seized. Present applicant is alleged to be one of the occupant of car amongst four persons apprehended on spot and a mobile phone has been seized from him. Based on such information, the aforesaid crime has been registered. The applicant is behind bar from 21.10.2023. His prayer for grant of bail has been rejected by the Court of Sessions vide order dated 20.11.2023.

3. Learned advocate appearing for the applicant would submit that except fact that applicant was found alongwith other accused, nothing incriminating has been recovered from him. Firearm was found in possession of co-accused Akshay. Mobile phone of the applicant is seized. The applicant was remanded to police custody, however, nothing incriminating could be recovered. No criminal antecedents are seen on the record.

4. Learned A.P.P. strongly opposes the prayer. She would submit that accused persons were dealing in unauthorized arms. Co-accused persons are involved in organized crime. The applicant was found in their company. Firearm is recovered from accused Akshay Athavale alongwith live cartridge. The driver of the vehicle attempted to kill police officer. Hence, she urges to reject the prayer for grant of bail.

aaa/-

5. Having considered the submissions advanced, apparently, the police came on the spot on the basis of the secret information wherein they came to know that accused Sunny Athavale and his brother Akshay Athavale are dealing in sale of unauthorized weapon in organized manner. The vehicle in question was intercepted by the police on the basis of such information. The applicant was found to be one of the occupant in the vehicle. Except recovery of the mobile phone, no incriminating article is recovered from him. Fire arm is recovered from accused Akshay. There is nothing on record to show that the applicant is also indulged in organized criminal activities alongwith the accused Akshay or his brother. The applicant is behind bar for more than six weeks by this time. The investigation as against the applicant appears to have been completed. Witnesses are mostly police persons. In that view of the matter, case is made out for grant of bail with certain conditions. Hence, the following order.

O R D E R

- i. Bail Application is hereby allowed.
- ii. The applicant - VAIBHAV MUKUNDRAO KAPALE be released on bail in connection with Crime No.630 of 2023 registered with Kaij police station, Tq. Kaij, District Beed for the offences punishable under sections 307, 353, 186 r/w 34 of the Indian Penal Code and u/s 3/25 of the Indian Arms Act

on his furnishing P.B. & S.B. of Rs.50,000/-
(Rs.Fifty Thousand) on the following conditions :-

- a] The applicant shall not tamper the prosecution evidence.
 - b] The applicant shall attend concerned police station once in a week i.e. on every Monday between 10 am to 2 pm till filing of the charge sheet.
 - c] The applicant shall not indulge into criminal activities.
- iii. Bail application is accordingly disposed off.

(S.G. CHAPALGAONKAR)
JUDGE

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