



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

BAIL APPLICATION NO.32 OF 2023

1. ASHOK SHITALAPRASAD SHARMA
2. AKASH ASHOK SHARMA ..APPLICANTS
VS.
THE STATE OF MAHARASHTRA ..RESPONDENT

Adv. Sudeep Pasbola i/b. Adv. Akhilesh Singh for the
Applicants.
Ms. Veera Shinde, APP for the State.

CORAM : M. S. KARNIK, J.

DATE : OCTOBER 07, 2023

P.C. :

1. Heard learned counsel for the applicants and learned APP for the State.
2. This is an application for bail in respect of the offence punishable under Sections 302, 201, 212, 120-B of the Indian Penal Code (hereafter 'IPC' for short), under Sections 3, 25, 27 of Arms Act and under Sections 3(1)(i), 3(1)(ii), 3(2), 3(3), 3(4) of the Maharashtra Control of Organised Crime Act, 1999 (hereafter 'MCOCA', for short) registered on 26.02.2022 vide C.R. No.I-232 of 2022 with Virar Police Station.

3. The date of the incident is 26.02.2022. There are in all 13 accused. The applicants are the accused Nos.6 and 7. The applicants were arrested on 02.04.2022. The applicants are father and son. One Rahul Sharma -accused No.3 is the gang leader. It is alleged that the accused No.3 and his gang was responsible for committing the murder of Samay Chauhan who was the contractor. The accused No.3-Rahul Sharma was given contract to commit the murder.

4. So far as the present applicants are concerned, the present offence is the only offence registered against them. The materials on record reveal that Rahul Sharma is related to the present applicants. The accused No.3-Rahul Sharma had sent a bag to be kept at the residence of the applicant No.2 which was later collected on behalf of accused No.3. So far as the applicant No.1 is concerned, the allegation of the prosecution is that when the accused No.3 was not keeping well, the applicant No.1 had asked his daughter who is a doctor to attend to accused No.3 and give him medical aid. Prima facie there is nothing on record to indicate that the applicants were having any knowledge of

the activities of the Organized Crime Syndicate headed by gang leader accused No.3.

5. Learned APP relying upon an affidavit filed on behalf of the respondent submitted that the applicants are members of the Organized Crime Syndicate. It is further submitted that the applicants are related to the gang leader accused No.3 and hence their involvement is complicit with the said crime. Learned APP opposed the application for bail.

6. The applicants were arrested on 02.04.2022. The accusations against the applicants is that the applicant No.1 tried to give shelter to the accused No.3 and that the applicant No.2 permitted the accused No.2 to keep one bag which had firearms in it at his place for two or three days. The investigation is complete and the charge-sheet has been filed. In my opinion, considering the role of the present applicants and nature of the accusations, further custody of the applicants is not required. The applicants are in custody for more than 18 months. There are no criminal antecedents reported against the applicants. There are no previous offences in common with the gang leader. The

applicants can be enlarged on bail. Hence, the following order :-

ORDER

- (a) The application is allowed.
- (b) The applicants-Ashok Shitalaprasad Sharma and Akash Ashok Sharma in connection with C.R. No.I-232 of 2022 registered with Virar Police Station shall be released on bail on their furnishing P.R. Bond of Rs.1,00,000/- each with one or more sureties in the like amount.
- (c) The applicants are permitted to furnish cash bail surety in the sum of Rs.1,00,000/- each for a period of 6 weeks in lieu of surety.
- (d) The applicants shall attend the Investigating Officer of Virar Police Station once in two months i.e. on first Monday of every alternate month between 10.00 a.m. and 12.00 noon commencing from November 2023.
- (e) The applicants 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 applicants shall not tamper with evidence.

(f) On being released on bail, the applicants shall furnish their contact numbers and residential addresses to the Investigating Officer and shall keep him updated, in case there is any change.

(g) The applicants shall attend the trial regularly.

(h) The applicants shall co-operate with the trial Court and shall not seek unnecessary adjournments.

7. The application is disposed of.

(M. S. KARNIK, J.)