

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

BAIL APPLICATION NO. 220 OF 2023

Akhilesh Shailesh Tiwari ..Applicant
VS.
The State of Maharashtra ..Respondent

Rahul Arote for the Applicant.

Mr. S. V. Gavand, APP for the State.

Amol Mandave, ACP (Crime) (Mira Bhayandar) Police Station-
Virar

CORAM : M. S. KARNIK, J.

DATE : JANUARY 23, 2023

P.C. :

1. This is an application for release on temporary bail in the C.R. no. I-232 of 2022 registered with Virar Police Station, for the offence punishable under sections 302, 120-B, 212, 506, 201 of the Indian Penal Code, 1860 ("IPC" for shrot), under sections 3, 25 and 27 of the Indian Arms Act and under sections 3(1)(ii), 3(2), 3(3) and 3(4) of the Maharashtra Control of Organised Crime Act, 1999, thereby seeking permission to attend the marriage ceremony of the applicant's daughter- Shipra from 24/01/2023 to 27/01/2023 under police escort.

2. The Special Court granted the applicant temporary bail by an order dated 03/01/2023. Before he could avail the facility of bail, a confidential report was submitted by the Crime Branch Uttar Pradesh. The Special Court vide order dated 16/01/2023 cancelled the bail granted to the applicant. Learned counsel for the applicant submitted that the applicant may be granted temporary bail on humanitarian grounds so that he can attend his daughter's wedding. He further submitted that the applicant would abide by whatever conditions may be imposed by this Court and seeks temporary bail under police escort.

3. Learned APP vehemently opposed the application. It is pointed out that the applicant was working in the police department in the State of Uttar Pradesh as a constable. The applicant was convicted for the offence punishable under section 363 of IPC in Gujarat in respect of kidnapping a businessman at the behest of an international criminal. After serving a sentence for 10 years, he was then arrested in connection with the offence punishable under section 302 on 14/07/2022 by the Virar Police Station. It is alleged that the applicant killed the deceased - Samay Chauhan by firing

at him. The applicant was arrested after the police teams visited several states in his search. To avoid his arrest, the applicant also stayed in Kathmandu, Morang, and Koteswar in Nepal. The applicant while serving in the police department, in the State of Uttar Pradesh, was suspended thrice and was dismissed from service. In the confidential report submitted, it is alleged that there is every likelihood of the applicant's absconding if the applicant is released on temporary bail.

4. Considering the criminal antecedents and the circumstances placed on record, it cannot be said that the apprehension of the prosecution is unfounded. The application, therefore, deserves to be rejected. However, on humanitarian grounds, the applicant may be permitted to witness the wedding ceremony of his daughter on 26/01/2023 through video conferencing between 3.00 pm and 6.00 pm on the link that will be provided to the jail authorities. The jail authorities to permit and make arrangements and ensure that the applicant witness the marriage ceremony of his daughter through video conferencing.

5. The application is rejected subject to what is observed hereinabove.

(M. S. KARNIK, J.)