

VRJ

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

BAIL APPLICATION NO.380 OF 2023

Altaf Mustafa Balurgi

... Applicant

V/s.

The State of Maharashtra

... Respondent

Mr. Aniket Vagal for the applicant.

Ms. Veera Shinde, APP for the respondent/State.

CORAM : AMIT BORKAR, J.

DATED : JUNE 27, 2023

P.C.:

1. This is an application under section 439 of the Criminal Procedure Code, 1973 seeking bail in connection with C.R. No.788 of 2021 registered with Bharati Vidyapeeth Police Station, Pune on 7th December 2021 for offences punishable under sections 302, 120(B), 109, 115 of the Indian Penal Code, 1860 and section 3(25)(1B)(a), 5(27), 7(25)(1AA), 8(2)(25)(1-B)(C), 9(1)(A)(i) (25)(1B)(D) of the Indian Arms Act and section 37(1) read with section 135 of the Maharashtra Police Act.

2. According to the prosecution, one Hussainsab Mannor lodged a report alleging that his son used to do construction business and had obtained loan of Rs.2,50,000/- from the co-accused Mehboob. Due to failure to refund the loan amount, there was quarrel between Mehboob and Sameer. On 6th December 2021

at about 11:30 a.m. while Sameer was travelling on his motorcycle, the informant started along with his one relative Zakir Hussain on moped. When two motorcycles came near the spot of incident, one pillion rider of a motorcycle fired bullets towards head of Sameer. It is alleged that co-accused Mehboob and the other person who fired bullets left the spot of incident. Victim Sameer succumbed to injuries. Therefore, a report was lodged. The investigating agency after completion of investigation filed charge sheet against the applicant and other co-accused.

3. The role attributed to the applicant is that he was working as a facilitator for supply of pistol used by the assailant to fire on the deceased.

4. The material on record in the form of statement of one Lakhan Katti, indicates that co-accused Bandu N. Kave who sold the pistol to the applicant along with bullets has been released on bail.

5. Except the statement of Lakhan Katti alleging aforesaid role, prima facie there is no material on record against the applicant to implicate him in the offence. However, the Trial Court needs to ascertain exact role of the applicant during the trial. Prima facie in the light of statement of Lakhan Katti, in view of the fact that this Court in Bail Application No.3460 of 2022, has released co-accused Bandu N. Kave and also in view of the fact that the applicant is in jail from 7th December 2021, the applicant needs to be released on bail. No criminal antecedents are brought on record. Hence, following order:

- a) The applicant Altaf Mustafa Balurgi be released on bail in connection with C.R. No.788 of 2021 registered with Bharati Vidyapeeth Police Station, Pune on 7th December 2021 for offences punishable under sections 302, 120(B), 109, 115 of the Indian Penal Code, 1860 and section 3(25)(1B)(a), 5(27), 7(25)(1AA), 8(2)(25)(1-B)(C), 9(1)(A)(i)(25)(1B)(D) of the Indian Arms Act and section 37(1) read with section 135 of the Maharashtra Police Act on furnishing PR Bond in the sum of Rs.50,000/-, along with one or two sureties in the like amount.
 - b) The applicant shall attend concerned police station once in a month on first Monday between 11:00 a.m. to 02:00 pm. till the conclusion of the Trial.
 - c) The applicant shall remain present before the Trial Court on each and every date unless exempted by the Trial Court.
 - d) The applicant shall not directly or indirectly make any inducement, threat or promise to any witness acquainted with the facts of the case so as to dissuade him from disclosing such facts to the court or to any police officer;
 - e) The applicant shall not obstruct or hamper the police investigation and not to play mischief with the evidence collected or yet to be collected by the police;
6. The bail application is disposed of in above terms.

(AMIT BORKAR, J.)