

SA Pathan

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

BAIL APPLICATION NO.1004 OF 2023

Ramesh Bhagwan Sukale	... Applicant
V/s.	
The State of Maharashtra	... Respondent

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Ms. Sana Raees Khan a/w Mr. Aditya Parmar, for the Applicant.

Mr. Pandurang H. Gaikwad, APP for State-Respondent.

Mr. S. P. Shendge, ASI, Paud police station.

CORAM : AMIT BORKAR, J.

DATED : JULY 26, 2023

P.C.:

1. This is an application filed under Section 439 of the Code of Criminal Procedure, 1973, (for short 'Cr.P.C.') in connection with C.R. No.169 of 2022 registered with Paud police station for offences punishable under Sections 302, 201 r/w 34 of the Indian Penal Code (for short 'IPC') and under Section 3(25), 4(27) of the Arms Act.

2. According to prosecution, the first information report (F.I.R.) is lodged by the informant/Ruturaj Hrudaynath Jadhav alleging that there was a dispute between co-accused Chetan Phalke, Amit Phalke and deceased Pritam Phalke with regards to land and property due to which they were quarreling frequently. The deceased had assaulted to the sister's husband of co-accused

Amit@ Gundya Phalke on 5 May 2022 due to which the dispute was at peak. On 5 May 2022, informant visited the cattle shed of accused No.2 by pulsar motorcycle. When he took the motorcycle inside, at about 8:14 pm, he saw the co-accused named Chetan Phalke, Amit Phalke and Shankar, full name not known running from the land. He saw at the door in the light of cattle shed, a pool of blood and one stone having blood, one black colour jerkin and sickle were lying. The black colour jerkin is of deceased Pritam Phalke, the informant suspected that the deceased was assaulted. Hence, the informant was afraid and returned at the gate and dialled on 100 number to provide aid and gave number of informant's friend Shrikant Phalke and thereafter, called Shrikant Phalke and disclosed about the incident. Therefore, the report was lodged.

3. During the course of investigation, the investigating agency was recovered the weapons. After the filing of charge-sheet, statement of witnesses under Section 161 of Cr.P.C. was recorded. According to prosecution, the said statements attributed specific role to the applicant.

4. Learned APP states that the facts of the case does not deserve the applicant to be released on bail. According to him, the role attributed to the applicant is sufficient to continue his incarceration. He further submitted that till receipt of Forensic Science Laboratory (FSL) report detention of the applicant is justified.

5. On perusal of the material on record, it appears in the

statement of witness, Chetan @ Dagadu Wadkar, recorded on 15 August 2022, the applicant is attributed role of holding the pistol. Moreover, it is alleged that accused No.1/Chetan @ Pandya Bhausahab Phalke fired bullets from the pistol. The postmortem report do not indicate corresponding injuries by pistol. At this stage, there is no direct evidence against the applicant attributing active role of firing from pistol. The applicability of Section 149 in the context of common object needs to be adjudicated during trial. There is no criminal antecedents to discredit the applicant. At this stage, individual role of each accused needs to be examined. Considering material on record and role attributed to the applicant, the applicant has made out a case for release on bail. Hence, following order is passed:

- a) The application is allowed.
- b) The applicant Ramesh Bhagwan Sukale be released on bail in connection with C.R. No.169 of 2022 registered with Paud police station for offences punishable under Sections 302, 201 r/w 34 of IPC and under Section 3(25), 4(27) of the Arms Act, on furnishing PR. Bond in the sum of Rs.25,000/- with one or two sureties in the like amount.
- c) The applicant shall mark his attendance with the concern police station once in a month between 11:00 am to 2:00 pm till conclusion of trial.
- d) The applicant shall remain present before the trial Court on each date unless specifically exempted by the Trial Court.

- e) 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.
 - f) The applicant shall not enter the jurisdiction of Paud Taluka till conclusion of trial, except for the purpose of mark presence with the police station once in a month and to attend trial.
6. The bail application stands disposed of in above terms. No costs.

(AMIT BORKAR, J.)