



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO.1942 OF 2023

Kishor Pandurang Shikhare

...Applicant

vs.

The State of Maharashtra

...Respondent

Mr. Niranjana Mundargi a/w Ms. Keral Mehta for the Applicant.

Mr. S. R. Agarkar, APP for the Respondent-State.

PSI Rajendrakumar Suresh Pawar, Karad City Police Station present.

CORAM : S. M. MODAK, J.

DATED : 19 AUGUST 2023

P. C. :

1. Heard learned counsel for the applicant and learned APP for the Respondent-State. The applicant is accused no.10 in the alleged crime. Officer of the concerned police station is present in the Court.

2. The First Information Report was lodged by the Police Constable of local Crime Branch before the Karad City police station, Satara on 28 March 2023. It is stated in the FIR that when the police personnel were on patrolling duty in Karad City, they got information that few persons have assembled in an agricultural field of sugar cane with an intention to commit dacoity. After calling panchas, they went to spot. They noticed that 8 to 10 persons were

standing in the sugar cane field. After noticing that the police arrived at the spot, the said persons tried to run away. Some how 8 persons were taken into custody by the police. During their personal search, country made pistols, live cartridges were found. At that time, the apprehended persons had disclosed their names. The present applicant was not found at the spot. The valuation of mudemal recovered at the instance of the accused persons is Rs.9,12,300/-. The complaint was lodged under Sections 399, 402 of the Indian Penal Code, 1860 and under Section 3 read with 25 of the Arms Act, 1959. The present applicant came to be arrested on 28 March 2023. There was house search panchanama of the applicant which indicates one country made pistol and live cartridges were found. The applicant was arrested on the basis of information given by the accused who was apprehended at the spot. Apart from the applicant, the other persons were also taken into custody.

3. After completion of investigation, the chargesheet is filed for the offence punishable under Sections 399, 402 of the Indian Penal Code, 1860 and Sections 3 read with 25 of the Arms Act, 1959.

4. The contention is raised that the applicant was not found

at the spot and there is no sanction under section 39 of the Arms Act obtained by the prosecution agency. The co-accused Dhananjay Maruti Varkar who was apprehended at the spot was granted bail by the Additional Sessions Judge, Karad which has been placed on record at page nos. 233 - 239 to the Application. It is also contended that the offence under Sections 399, 402 of the Indian Penal Code, 1860 cannot be invoked against the Applicant. To support his contention, the learned counsel relied upon the observation in the case of *Chaturi Yadav vs. State of Bihar*¹

5. Learned APP opposed the bail for the reasons that the fire arm and live cartridges were recovered at the instance of the applicant and his name is disclosed by the co-accused.

6. There are no criminal antecedents against the present applicant. The chargesheet is filed. The applicant was not found at the spot. so I am inclined to grant a bail. Hence the following order;

ORDER

- (a) The applicant be released on bail in connection with C.R. No. 319 of 2019 registered with Karad City Police Station, Satara for the offences

¹ AIR 1979 SC 1412

punishable under Sections 399, 402 of the Indian Penal Code, 1860 and Sections 3 read with 25 of the Arms Act, 1959, on furnishing personal bond and surety bond of Rs.25,000/-.

- (b) The applicant shall not threaten the prosecution witnesses or allure them in any manner.
- (c) The applicant shall give attendance to the Karad City Police Station, Satara on 1st Monday of every month between 10 am to 12 noon for a period of one year and thereafter as and when called by the Investigating officer.
- (d) Needless to say, violating of the condition above will make the Applicant liable for cancellation of bail, after notice to the Applicant.

- 7. Application is disposed of accordingly.
- 8. These are my *prima facie* observations and the trial Court may not be influenced by that.
- 9. All the parties to act on an authenticated copy of this order.

[S. M. MODAK, J.]