

VRJ

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

ANTICIPATORY BAIL APPLICATION NO.2064 OF 2023

Darshan Uttam Donde

... Applicant

V/s.

The State of Maharashtra

... Respondent

VAIBHAV
RAMESH
JADHAV
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VAIBHAV RAMESH
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Mr. Raj L. Kamble with Mr. D. Bhosale for the applicant.

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

Mr. Atul Baburao Patil, PSI, Upnagar Police Station, Nashik is present.

CORAM : AMIT BORKAR, J.

DATED : JULY 26, 2023

P.C.:

1. Apprehending arrest in connection with C.R. No.243 of 2023 registered with Upnagar Police Station, Nashik for offences punishable under sections 3, 5 and 25 of the Arms Act, 1959 read with section 135 of the Maharashtra Police Act, 1951, the applicant is seeking relief under section 438 of the Criminal Procedure Code, 1973.

2. Prosecution case in short is as under:

3. The informant is serving in Anti Dacoity Squad in Nashik City Police Station. On 14th June 2023, he received secret information about some persons carrying illegal gun.

Consequently, panch witnesses were called in the police station and police party initiated the action. Approximately at 12:20 a.m. on 15th June 2023 they came across the person with suspicious behaviour. Therefore, they apprehended him. During his search, the country-made revolver was found with three live cartridges and an empty cartridge. Police initiated necessary action and the investigation was commenced. The investigation further revealed that apprehended accused had purchased the country-made gun through the present applicant. Accordingly, the report was registered.

4. The Sessions Judge by order dated 3rd July 2023 rejected the application.

5. According to the learned advocate for the applicant, the applicant is falsely implicated. He is acquitted of offences under section 302. In rest of the offences he is released on bail. He is ready to cooperate with the investigation. Therefore, custodial interrogation of the applicant is not required.

6. Per contra, learned APP submitted that the applicant is habitual offender. The applicant has eleven antecedents to his discredit, out of which six offences are registered under the Arms Act, 1959 and remaining five are bodily offences.

7. On perusal of the material on record, it appears that the possessor of firearm has named the applicant as the supplier of firearm. Statement of co-accused is relevant for the purpose of investigation. Considering registration of similar offences under the provisions of the Arms Act, 1959 from 2019 till 2020 (6

offences), custodial interrogation of the applicant is necessary to unearth manufacturer and seller of such illegal weapon.

8. The judgment relied by the applicant in the case of **Md. Raies Alias Raiesudding Son of Isuf Alias Md. Isuf Alias Md. Yusuf vs. State of Bihar** reported in 2019 (5) B.L.Jud. 552 is not applicable in the facts of the case as the applicant therein was not a habitual offender. Considering six antecedents of the Arms Act and five antecedents of bodily offences, the applicant is not entitled to discretionary relief..

9. The anticipatory bail application is, therefore, rejected.

(AMIT BORKAR, J.)