

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

CRIMINAL BAIL APPLICATION NO. 3744 OF 2022

Akash Alias Bablu Khandu Mashere	...Applicant
Versus	
State Of Maharashtra	...Respondent

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Mr. Ashok Mundargi a/w Adv. Meghdeep Oak for the Applicant.
Ms. P. N. Dabholkar, APP, for the Respondent-State.

CORAM : SHIVKUMAR DIGE, J.

DATE : 8th SEPTEMBER 2023.

P.C. :

1. By this application, applicant is seeking bail in C.R. No. 42 of 2021 registered with Shirur Police Station, Pune for the offences punishable under sections 109, 212, 302 and 307 read with section 120-B of the Indian Penal Code, 1860 (for short "IPC") and under Sections 3, 25, 27 of the Arms Act, 1959.

2. It is prosecution's case that, complainant received information from one Pratibha Thorat that, there was firing on her

husband Swapnil Ransingh and Swapnil Gawde and both got injured in it. After receiving information complainant went to hospital where her husband was admitted. There she come to know that, her husband was declared dead. Complainant inquired with injured Swapnil Gawde about the incident, he told her that on 18th January, 2021 at around 12:00 a.m., when he and her husband were standing behind Malganga Hotel at that time, applicant and accused No.3 Vijay were standing in front of Pan Shop. When injured (Swapnil Gawde) and deceased were going in that hotel at that time, they heard big sound then, he saw that applicant was sitting on black color motorcycle whereas accused No.3 Vijay was holding pistol in his hand and he was firing towards them. The accused No.3 fired bullets in the back of deceased and also on injured(Swapnil Gawde). In said firing, injury caused to stomach of Swapnil. Thereafter, applicant and accused No.3 ran away on motorcycle. There was dispute between deceased (Swapnil Ransingh) and co-accused Nitin Gawade, as they were partners in sand business. After lodging complaint by complainant, police arrested the applicant and other co-accused.

3. It is contention of learned counsel for the applicant that, the

role attributed to the applicant in FIR is that, at the time of incident he was sitting on the motorcycle and after assault on deceased he ran away from the incident spot. There is no recovery at the instance of applicant. Applicant is behind bar for more than two years and eight months. Hence, requested to allow the application.

4. Learned APP submitted that, applicant was member of the gang who assaulted the deceased. Applicant was present at the time of incident with accused No.3 who fired at the deceased from his pistol. After the assault applicant ran away from the incident spot with accused No.3. It shows his involvement in the crime. If applicant is released on bail, he may threaten the prosecution witnesses. Hence, requested to reject the application.

5. I have heard both learned counsel. Perused FIR and charge sheet.

6. Allegations against the applicant are that, when incident happened, at that time he was sitting on motorcycle with accused no.3. The injured Swapnil Gawde, in his statement, has stated that,

applicant was driving the motorcycle and accused No.3 fired on deceased. The statement of this witness is recorded after seven months of the incident. In the FIR, the role of the applicant is attributed that, he was sitting on motorcycle. The pistol which was used by accused no.3 for firing on deceased is seized at the instance of the accused no.3. Applicant is behind bar for more than two years and eight months. Investigation is completed and charge sheet has been filed.

7. Considering the above facts, further detention of applicant is not required.

8. In view of above, I pass following order.

ORDER

- (i) Applicant be released on bail in Crime No. 42 of 2021 registered with Shirur Police Station, District – Pune, on executing P.R. Bond in the sum of Rs. 25,000/- with one or two sureties in the like amount.
- (ii) Applicant shall attend the concerned police station once in a month i.e. on first Saturday between 11:00 a.m. to

2:00 p.m. till framing of charge.

- (iii) Applicant shall not tamper with the evidence and/or influence the prosecution witnesses.
- (iv) The application is allowed in the aforesaid terms.

(SHIVKUMAR DIGE, J.)