

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO. 3189 OF 2022**

Mohammed Akram Mohammed

Suleman @ Mathan Chorva

...Applicant

Versus

The State of Maharashtra and anr.

...Respondents

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Mr. S. T. Pandey a/w Mr. Arvind Singh a/w Ms Anima Mishra a/w
Ms Angela Singha a/w Ms Kajal Upadhyay a/w Ms Ritu Singh and
Mr. Anuj Singh i/b SBG Law for the Applicant.

Mr. Amit Palkar, APP for the State.

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CORAM : N.R. BORKAR, J.

DATED : 10 APRIL 2023

P.C. :-

This is an application filed under Section 439 of the Code of Criminal Procedure for bail.

2. The applicant came to be arrested in Crime No. 104 of 2021 registered at Pawar Wadi Police Station for the offences punishable under Sections 302, 397, 120B, 201, 109, 504, 506 r/w 34 of the Indian Penal Code, Sections 3/25, 5/27 of the Arms Act and Sections 3(1)(ii), 3(2), 3(4) of the Maharashtra Control of Organized Crime Act, 1999.

3. The incident took place in the intervening night of 7 July 2021 and 8 July 2021. According to the prosecution, on 7 July 2021, at about 10:45

p.m., the complainant and his relatives including the deceased had purchased about 45 goats from goat market in Jalgaon. They loaded the said goats in pick-up jeep and started coming to Kalyan. According to the prosecution, at about 3:35 a.m. while they were near Chalisgaon on Mumbai-Agra Highway, the present applicant and other co-accused with a view to rob them started chasing them on motorcycle and at that time, one of the co-accused was armed with pistol. It is alleged that the present applicant and other co-accused had asked them to stop their vehicle. However, as they did not stop the vehicle, one of the co-accused had fired at them. The bullet hit the deceased and he died due to bullet injury.

4. I have heard the learned counsel for the applicant and the learned APP for the respondent-State.

5. The allegation against the present applicant is that he had supplied pistol and motorcycle for committing the alleged robbery.

6. The learned counsel for the applicant submits that the only incriminating material against the present applicant is memorandum statement of co-accused.

7. On the other hand, the learned APP submits that the applicant is involved in four more crimes. It is submitted that the present applicant and two more accused in the present crime are members of the organised crime syndicate. It is submitted that considering the nature of offence, the applicant may not be released on bail.

8. It is not the case of the prosecution that the applicant was part of robbery. The offences under MCOC Act are not invoked against the accused, who participated in the robbery. There appears to no other evidence against the applicant except the statement of the co-accused. Considering the overall facts and circumstances, I am inclined to release the applicant on bail. Hence, the following order is passed:

- (i) Application is allowed.
- (ii) The applicant be released on bail in Crime No. 104 of 2021 registered at Pawarwadi Police Station for the offences punishable under Sections 302, 397, 120B, 201, 109, 504, 506 r/w 34 of the Indian Penal Code, Sections 3/25, 5/27 of the Arms Act and Sections 3(1)(ii), 3(2), 3(4) of the Maharashtra Control of Organized Crime Act, 1999 on furnishing PR bond in the sum of Rs. 25,000/- with one or two sureties in the like amount.
- (iii) The 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 conclusion of the trial.
- (iv) The prosecution is at liberty to move an application for cancellation of bail, if the applicant commits any other offence.

(N.R. BORKAR, J.)