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

BAIL APPLICATION NO. 3947 OF 2022

Hifzur Raheman Mohammed Idris	... Applicant
V/s.	
The State of Maharashtra & Anr.	... Respondents

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

Mrs. Rutuja Ambekar, APP for State-Respondent.

Mr. A A Shaikh, PSI, Azad Nagar police station.

CORAM : AMIT BORKAR, J.

DATED : AUGUST 8, 2023

P.C.:

1. This is an application filed under Section 439 of the Code of Criminal Procedure, 1973, (for short 'Cr.PC.') in connection with C.R. No.I-71 of 2021 registered with Azad Nagar police station, Malegaon for offences punishable under Section 353 of the Indian Penal Code, 1860 (for short 'IPC') and under Sections 3 read with Section 25 of Indian Arms Act.

2. The prosecution case in short is as under:

On 2 August 2021, he along with other police officials were called by SDPO, Malegaon. The SDPO informed them that she received a secret information about the arrival of the

accused persons at Galli No.11, Nayapura, Malegaon for selling weapons illegally. SDPO then gave directions for conducting a raid and accordingly panch witnesses were called and a squad was formed. On 3 August 2021 at 1:30 pm, they proceeded to the spot. They found one person, under suspicious moving around there and upon seeing them, he tried to flee away. The team nabbed him. The said person was identified as accused No.1 (Hifzur Raheman Mohammed Idris). A country made pistol worth Rs.20,000/- without valid licence, two live cartridges worth Rs.1000/- and one Oppo mobile having Airtel SIM worth Rs.30,000/- have been found in possession on his personal search. He did not co-operate while conducting his personal search and obstruct the complainant by pushing him aside, thereby causing obstruction in discharging the public duty. On questioning, he failed to give satisfactory reply about the illegal possession of arms. Therefore, report was lodged against the accused.

3. The applicant was arrested on 3 August 2021. The investigating officer carried out investigation and after completion of investigation filed charge sheet against the accused.
4. The applicant filed application under Section 439 of Cr.P.C. seeking bail before learned Sessions Judge, which came to be rejected by order dated 22 August 2022.
5. Learned Advocate for the applicant submitted that the maximum punishment under Section 3 r/w 25 of Arms Act is 5

years. The applicant has already undergone 2 years of imprisonment. He has falsely prosecuted. According to him, the material on record is not sufficient made out a prima facie case.

6. Per contra, learned APP submitted that there is sufficient material to attract ingredients of violation of Sections 3 r/w 25 of Arms Act. The applicant has 4 antecedents of similar nature. There is every possibility that in case the applicant is released, he will indulge in similar offences in future.

7. On perusal of the report and material on record, it appears that the allegations against the applicant are in relation to commission of offence under Section 3 of Arms Act. The punishment for contravention of Section 3 of Arms Act is provided under Section 1 Section 25 of Arms Act which may extend up to 5 years. The applicant has already undergone 2 years of punishment. The charges are yet to be framed. It is unlikely that the trial will be completed in near future. However, to take care apprehension expressed by learned APP, stringent conditions are being imposed while releasing the applicant on bail. Hence, following order is passed:

- a) The application is allowed.
- b) The applicant Hifzur Raheman Mohammed Idris be released on bail in connection with C.R. No.I-71 of 2021 registered with Azad Nagar police station, Malegaon for offences punishable under Section 353 of IPC and under Sections 3 read with Section 25 of Indian Arms Act, on furnishing P.R. 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 on first Saturday of each month between 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, at the time of execution of the bond, furnish their addresses and mobile numbers to the investigating officer, and the court concerned, and shall not change the residence till the final disposal of the case.

g) The applicant will not be indulged in any activities which may amount to offence under the provisions of Arms Act. If, he indulges in similar activities, it will open to the prosecution to file application for cancellation of bail.

8. The bail application stands disposed of in above terms. No costs.

(AMIT BORKAR, J.)