

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

CRIMINAL BAIL APPLICATION NO. 3394 OF 2023

Nanasaheb @ Nana Shivaji Patekar ...Applicant
Versus
The State of Maharashtra ...Respondent

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Mr. Aniket Nikam appearing through V.C. a/w Mr. Amit Icham, Mr. Sumit Patil, Ms. Shreya Anuwal, Advocate for the Applicant.

Mrs. Veera Shinde, APP for the Respondent – State.

Mr. Jalindar N., DYSP, Barshi Police Station, present.

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CORAM : ANIL S. KILOR, J.

DATE : 24th JULY, 2024.

P.C.:

1. Heard.
2. By this application under Section 439 of the Code of Criminal Procedure, the Applicant is seeking bail in Crime No.1 of 2023, registered with Pangri Police Station, District: Solapur for the offences punishable under Sections 304, 337, 338, 285, 286, 427 r/w 34 of Indian Penal Code (for short 'IPC') and Sections 5, 9-B of The Indian Explosives Act, 1884.
3. Mr. Nikam, learned Advocate for the Applicant submits that though there is no material on record to show that the Applicant was the partner in the business of manufacturing of

firecrackers, on the statements of certain witnesses, he has been implicated and arrested as Accused No.2. It is submitted that there are total five Accused and the business of manufacturing of firecrackers was in the name of Accused No.1. It is submitted that it was an accident in which five people have lost their lives. He accordingly submits that as the Applicant is not the partner and since the charge-sheet has been filed further custody of the Applicant is not necessary.

4. On the other hand, learned APP has drawn attention of this Court to the statements of the witnesses who were working in the said factory and who have referred the Applicant as partner. Learned APP further relied upon memorandum under Section 27 of the Indian Evidence Act, to oppose the present application.

5. In the above referred backdrop having gone through the charge-sheet and considering the material collected by the Investigating Officer during the investigation, though the Applicant is implicated in the present offence as partner of the main Accused, there is no material except the statements of the witnesses. The Order of the Collector dated 2nd February, 2023, shows that the license which was standing in the name of the present Applicant of manufacturing of firecrackers, the renewal of the same was refused

by the Collector.

6. In the circumstances, even if the case of the prosecution is considered and accepted, it can be said that there was no intention but because of negligence on the part of Applicant and other co-accused, the alleged unfortunate incident took place.

7. The Police have seized and recovered the necessary record and documents including other material and also on completing investigation, filed the charge-sheet. In the circumstances, considering the that further custody of the Applicant is not necessary, I am of the opinion that the Applicant is entitled for grant of bail.

8. Accordingly, the application is allowed.

ORDER

- i. Criminal Bail Application No.3394 of 2023 is allowed;
- ii. It is directed that the Applicant shall be released on bail in Crime No.1 of 2023, registered with Pangri Police Station, District: Solapur for the offences punishable under Sections 304, 337, 338, 285, 286, 427 r/w 34 of IPC and Sections 5, 9-B of The Indian Explosives Act, 1884, on furnishing P.R. Bond of Rupees Twenty Five Thousand with one solvent surety in the like amount;

- iii. The Applicant shall not enter within the territorial jurisdiction of Pangri Police Station, District: Solapur till conclusion of trial except for attending trial;
- iv. The Applicant shall provide his address and name of the nearby Police Station which he shall attend on 1st of each month between 10:00 am to 11:00 am till conclusion of trial;
- v. The Applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case, as also not tamper with the evidence;
- vi. Liberty is granted to the State for cancellation of bail if the Applicant commits similar offence;
- vii. The Applicant shall attend the trial before the Trial Court regularly on every date unless exempted by the Trial Court for any reason.
- viii. Application stands disposed off, accordingly.

(ANIL S. KILOR, J.)