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

BAIL APPLICATION NO.1141 OF 2024

MOHAMMAD SAJID MOHAMMAD SAGEER

@ MIRCHI

..APPLICANT

VS.

THE STATE OF MAHARASHTRA

..RESPONDENT

Adv. Subir Sarkar a/w Adv. Sumit Erande for the applicant.
Smt. Megha S. Bajoria, APP for the State.

CORAM : M. S. KARNIK, J.

DATE : APRIL 24, 2024.

P.C. :

1. Heard learned counsel for the applicant and learned APP for the State.

2. This is an application for bail in respect of the offence punishable under Sections 302, 397, 120-B, 201, 109, 504, 506 read with 34 of the Indian Penal Code (hereafter 'IPC' for short), under Sections 3/25, 5/27 of the Arms Act and under Sections 3(1)(i)(ii), 3(2), 3(4) of the Maharashtra Control of Organised Crime Act, 1999 (hereafter 'MCOC Act' for short) registered on 08.07.2021 vide C.R. No.104 of 2021 with Pawarwadi Police Station, Malegaon.

3. There are in all eight accused. The applicant is the accused No.5. The applicant was arrested on 12.07.2021.

4. The date of the incident is 08.07.2021 at around 3:30 a.m. The complainant was dealing in the trade of goats. During Eid festival, the complainant was transporting goats in a vehicle. The accused – Jalaluddin Kamaluddin Qureshi Alias Arif Qureshi who is the gang leader decided to loot the vehicles carrying goats in conspiracy with other accused. Three accused on one motorcycle followed the vehicle. The vehicle did not stop. The person sitting on the motorcycle in the middle fired at the vehicle. One of the bullet hit the deceased and he died due to bullet injury. By the order dated 07.01.2023 in Bail Application No.2127 of 2022 of this Court, the accused – Saiyyad Abuzar Saiyyad Ishrail who is alleged to have fired at the vehicle is enlarged on bail.

5. Learned APP opposed the application for bail.

6. The applicant was a pillion rider. The applicant was arrested on 12.07.2021 and is now in custody for more than two years and nine months. The applicant had earlier filed

Bail Application No.716 of 2023 which was withdrawn on 29.08.2023 with liberty to apply after six months if there is no progress in the trial. I have perused the reply filed by the prosecution. There is one criminal antecedent reported against the applicant of the year 2020 under Sections 307, 326, 324, 143, 147, 148 of the IPC. In my opinion, the antecedent by itself should not be a factor to deprive the applicant the facility of bail. The applicant has not been identified by any of the eyewitnesses in the test identification parade. Almost all the accused have been enlarged on bail. The accused riding the motorcycle has already been enlarged on bail. Even the accused who fired is released on bail. The charge has not been framed so far. I am therefore inclined to enlarge the applicant on bail. The investigation is complete and the charge-sheet has been filed. The applicant does not appear to be a flight risk. Hence, the following order :-

ORDER

- (a) The application is allowed.

(b) The applicant-Mohammad Sajid Mohammad Sageer @ Mirchi in connection with C.R. No.104 of 2021 registered with Pawarwadi Police Station, Malegaon, shall be released on bail on his furnishing P.R. Bond of Rs.25,000/- with one or more sureties in the like amount.

(c) The applicant shall attend the Investigating Officer of Pawarwadi Police Station, Malegaon, once in a month every first Monday of the month between 11:00 a.m. and 1:00 p.m.

(d) The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing the facts to Court or any Police Officer. The applicant shall not tamper with evidence.

(e) On being released on bail, the applicant shall furnish his contact number and residential address to the Investigating Officer and shall keep him updated, in case there is any change.

7. The bail application is disposed of.

(M. S. KARNIK, J.)