

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**  
**CRIMINAL APPELLATE JURISDICTION**  
**CRIMINAL BAIL APPLICATION NO.1197 OF 2024**

|                               |               |
|-------------------------------|---------------|
| Amar @ Mithun Ramkumar Rathod | ...Applicant  |
| <i>Versus</i>                 |               |
| The State of Maharashtra      | ...Respondent |

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Mr. Shailesh S. Kharat, Advocate, for the Applicant.  
 Mr. P. P. Deokar, APP, for the Respondent-State.

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**CORAM: MADHAV J. JAMDAR, J.**  
**DATED: 24<sup>th</sup> APRIL 2024**

**P. C.:**

**1.** Heard Mr. Kharat, learned Counsel for the Applicant and Mr. Deokar, learned APP for the Respondent-State.

**2.** This regular Bail Application is preferred under Section 439 of the *Code of Criminal Procedure, 1973*. The relevant details are as follows:-

|    |                                |                                                                                                      |
|----|--------------------------------|------------------------------------------------------------------------------------------------------|
| 1. | C. R. No.                      | 650 of 2023                                                                                          |
| 2. | Date of registration of F.I.R. | 04/08/2023                                                                                           |
| 3. | Name of Police Station         | Chakan, District-Pune                                                                                |
| 4. | Section/s invoked              | 59, 307, 323 and 506 r/w. 34 of the Indian Penal Code, 1860 ("IPC");<br>3, 25, 37(1), and 37(3) r/w. |

|    |                  |                                          |
|----|------------------|------------------------------------------|
|    |                  | 135 of the Maharashtra Police Act, 1951. |
| 5. | Date of incident | 04/08/2023                               |
| 6. | Date of arrest   | 25/08/2023                               |

3. As per the prosecution case, the Informant along with his friends including Suraj *alias* Uddhav Kute were consuming liquor and at that time, some altercation took place between the Informant and the said Suraj Kute. Thereafter, Suraj was going to his house and was crying and therefore, some other friends went along with him. As they were not returning for a considerable time, the Informant and others also went there and at that time, Accused No.1-Saurabh Kute questioned the Informant as to why he assaulted his brother Suraj and he suddenly fired a bullet from his pistol. At that time, Suraj also assaulted the Informant. Saurabh Kute is Accused No.1 and Suraj Kute is Accused No.2. The present Applicant is Accused No.3. The role attributed to the present Applicant is that about 6 months ago he had provided Saurabh the firearm used in the incident in question.

4. It is the contention of Mr. Kharat, learned Counsel for the Applicant that there is no role in the actual offence in question

attributed to the Applicant. He submitted that no role has been attributed to the Applicant in the entire Charge-sheet and therefore, the Bail Application be rejected.

5. On the other hand, Mr. Deokar, learned APP for the Respondent-State strongly opposed the Bail Application. He submitted that there is a statement of Accused No.1 dated 6<sup>th</sup> August 2023 in which he has disclosed that the present Applicant had given the said firearm to the Accused No.1-Saurabh Kute. He therefore, submitted that the present Applicant has been added as the Accused No.3. He submitted that there are 4 antecedents against the Applicant, which are as follows:

| Sr. No. | C.R. No.  | Police Station | Sections                                                                                    |
|---------|-----------|----------------|---------------------------------------------------------------------------------------------|
| 1       | 1186/2018 | Chakan         | 3 and 25 of the Arms Act, 1959                                                              |
| 2       | 142/2021  | Chakan         | 279, 337, 338 and 427 of the Indian Penal Code, 1860;                                       |
| 3       | 1281/2021 | Chakan         | 279, 427 and 506 of the Indian Penal Code, 1860;<br>185 of the Motor Vehicle Act, 1988      |
| 4       | 224/2022  | Dahivadi       | 395, 397, 307 and 326 of the Indian Penal Code, 1860;<br>3, 4 and 25 of the Arms Act, 1959. |

He therefore submitted that Bail Application be rejected.

6. As far as the antecedents are concerned, Mr. Kharat, learned Counsel for the Applicant submitted that in all above cases, the Applicant has been released on bail.

7. Perusal of the record shows that no role is attributed to the present Applicant in the incident in question. The only role attributed to the Applicant is that he had provided the said firearm to the Accused No.1-Saurabh Kute around 6 months ago and that the said firearm was used in the offence in question. As far as the Charge-sheet is concerned, none of the statements annexed to the Charge-sheet show the involvement of the present Applicant in the actual offence. The present Applicant was added as an accused person only on the basis of the statement by the co-Accused. Although there are antecedents against the Applicant, he has been released on bail in all the cases.

8. Perusal of the record further shows that in the present case, the incident in question occurred on 4<sup>th</sup> August 2023, F.I.R. was lodged on 4<sup>th</sup> August 2023, the Applicant was arrested on 25<sup>th</sup> August 2023 and Charge-sheet has been filed. There is no progress in the trial and even the Charge is also not framed yet. The trial is

unlikely to conclude any time soon and is likely to take a considerably long time.

9. The Applicant does not appear to be at risk of flight.

10. Accordingly, the Applicant can be enlarged on bail by imposing conditions.

11. In view thereof, the following order:-

**ORDER**

(a) The Applicant – Amar *alias* Mithun Ramkumar Rathod be released on bail in connection with C.R. No.650 of 2023 registered with the Chakan Police Station, District - Pune on his furnishing P.R. Bond of Rs.50,000/- with one or two local solvent sureties in the like amount.

(b) On being released on bail, the Applicant shall furnish his cell phone number and residential address to the Investigating Officer and shall keep the same updated, in case of any change thereto.

- (c) The Applicant shall report to the Chakan Police Station, District - Pune on the first Sunday of every month between 11:00 a.m. and 1:00 p.m. until the conclusion of the trial.
- (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 such a person from disclosing the facts to the Court or to any Police personnel.
- (e) The Applicant shall not tamper with the prosecution evidence and shall not contact or influence the Complainant or any witness in any manner.
- (f) The Applicant shall attend the trial regularly. The Applicant shall co-operate with the Trial Court and shall not seek unnecessary adjournments thereat.
- (g) The Applicant shall surrender his passport, if any, to the Investigating Officer.

**12.** The Bail Application is disposed of accordingly.

**13.** It is clarified that the Trial Court shall decide the case on its merits, uninfluenced by the *prima facie* observations made in this order.

**[MADHAV J. JAMDAR, J.]**

SONALI  
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PATIL

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