

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

CRIMINAL BAIL APPLICATION NO. 831 OF 2024

Abhay Mewalal Vishwakarma ...Applicant

Versus

The State of Maharashtra ...Respondent

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Mr. Anand Palande a/w Mr. Kailash Lokaer, Advocate for the Applicant.

Mrs. Savita Yadav, APP for the Respondent – State.

PSI, S.M. Kondewad, Virar Police Station, present.

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CORAM : ANIL S. KILOR, J.

DATE : 23rd 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. 1178 of 2019, registered with Virar Police Station, District: Palghar for the offences punishable under Sections 302, 397, 459, 460 r/w 34 of Indian Penal Code (for short 'IPC'), Sections 3, 25, 27 of the Arms Act, 1959 and Section 37(1)(3) of Maharashtra Police Act, 1951.
3. Learned Advocate for the Applicant submits that the main accused has been released on bail by this Court on 16th January, 2023 and in view of the said change in circumstances in the present

successive application has been filed. It is submitted that the Applicant is in jail since 19th December, 2019 i.e. from last about four and half years. He therefore submits that the period of incarceration as well as on the ground of parity, the Applicant may be released on bail.

4. On the other hand, learned APP strongly opposed the application and submits that the offence is very serious. However, after going through the statements of witnesses and the complaint, it is evident that gun shot is attributed to the Accused No.1 who has been released on bail. As far as the Applicant is concerned the allegations are that he caught hold one of the deceased from back side. Furthermore, considering the period of incarceration of the Applicant i.e. more than four and half years and further the fact that there are no antecedents against the Applicant, I am of the opinion that, the further custody of the Applicant is not necessary. In the circumstance, the application is allowed.

ORDER

- i. Criminal Bail Application No.831 of 2024 is allowed;
- ii. It is directed that the Applicant shall be released on bail in Crime No. 1178 of 2019, registered with Virar Police Station, District: Palghar for the offences punishable under

Sections 302, 397, 459, 460 r/w 34 of IPC, Sections 3, 25, 27 of the Arms Act, 1959 and Section 37(1)(3) of Maharashtra Police Act, 1951, on furnishing PR. 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 Virar Police Station, District : Palghar till conclusion of trial except for attending trial;

iv. The Applicant shall attend the Police Station on 1st and 16th day of each month between 12:00 noon to 2:00 p.m. 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.)