

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

CRIMINAL BAIL APPLICATION NO. 1030 OF 2024

Bhausahab @ Vaibhav Shantaram Kad and ...Applicants
Others

Vs.

The State of Maharashtra ...Respondent

Mr. Rohan Hogle, Advocate for Applicant.

Mr. P. P. Deokar, APP for State-Respondent.

CORAM:- ANIL S. KILOR, J.

DATED:- 29th AUGUST, 2024

PC:-

1) Heard.

2) By this application under Section 439 of the Code of Criminal Procedure the applicants are seeking bail in Crime No.1678 of 2022 registered with Chakan Police Station, Pimpri Chinchwad for the offences punishable under Sections 307, 452, 324, 323, 504, 506, 427 read with Section 34 of the Indian Penal Code, 1860, Section 4/25 of Arms Act, 1959, Section 37(1) read with Section 135 of Maharashtra Police Act, 1951, Sections 3(1)(ii) and 3(4) of Maharashtra Control of Organised Crime Act, 1999 and Sections 3 and 7 of Criminal Law Amendment Act, 2013.

3) Having gone through the charge-sheet and the relevant material collected by the Investigating Officer during the investigation, it is evident that there are eye-witnesses to the incident. However, as far as applicant No. 1 – Bhausahab @ Vaibhav Shantaram Kad is concerned, no specific role is attributed and further stone was recovered from him. Moreover, there is no evidence to show that he is a member of a syndicate.

4) In the above-referred background, if the period of incarceration of applicant No. 1 is concerned which is more than one and half years and the fact that the charge-sheet has been filed, I am of the opinion that he is entitled for grant of bail.

5) Furthermore, as far as the twin conditions are concerned as I have observed that there is nothing on record to show that he is a member of the syndicate, it is doubtful whether the provisions of MCOC Act, 1999 would apply to the applicant No. 1.

6) So far as the applicant No. 2 – Viraj Krishna Kad is concerned, there are six antecedents against the applicant No. 2. Moreover, there was a recovery of axe from the applicant No. 2. Thus, considering the nature of evidence collected against the applicant No. 2 and his role, it cannot be said that there is a reasonable ground to believe that the applicant No. 2 is not guilty of the alleged offence. Furthermore, considering the antecedents, there is every possibility that if he is released on bail, he may commit similar offence.

7) In that view of the matter, I do not find the case of the applicant No. 2 as a fit case for grant of bail. Accordingly, I pass the following order.

ORDER

- i. The Application of Applicant No. 2 – Viraj Krishna Kad is rejected.
- ii. The Application of Applicant No. 1 – Bhausahab @ Vaibhav Shantaram Kad is allowed.
- ii. It is directed that the Applicant No. 1 shall be released on bail in Crime No. 126 of 2022, registered with Nandgaon Police Station, Nashik Rural for the offences punishable under Sections 302 and 201 read with Section 34 of the Indian Penal Code, 1860, on furnishing P.R. Bond of Rs.25,000/- (Rupees Twenty Five Thousand) with one solvent surety in the like amount;
- iii The applicant No. 1 shall not enter into the territorial jurisdiction of Chakan Police Station till the conclusion of the trial except on the date of trial;
- iv. The applicant No. 1 shall provide his address and name of the nearby police station to the I.O, which he shall attend the said Police Station on 1st day of every month between 12.00 noon to 2.00 p.m., till the conclusion of the trial except on the date of trial;

- v. The Applicant No. 1 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 to apply cancellation of bail if the Applicant No. 1 commits similar offence.;
- vii. The Applicant No. 1 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 of, accordingly.

[ANIL S. KILOR, J.]