



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.**

CRIMINAL APPLICATION (BA) NO.421 OF 2024
(Abdul Vakil Khan Abdul Shakil Khan Vs. State of Maharashtra)

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Mr. S.D. Chande, Advocate for the applicant.
Mr. M.J. Khan, APP for the State.

CORAM:- URMILA JOSHI-PHALKE, J.
DATED :- JULY 19, 2024.

By preferring this application, the applicant is seeking bail under Section 439 of the Code of Criminal Procedure. The applicant came to be arrested on 03/06/2022 in connection with Crime No.227/2022 registered at Police Station Kapil Nagar, Nagpur for the offences punishable under sections 307 and 120-B read with Section 34 of the Indian Penal Code and Sections 3/25 and Section 5/27 of Indian Arms Act, 1959 and Section 135 of the Maharashtra Police Act.

2. Learned Counsel for the applicant submitted that the co-accused Ali Shah s/o Shoukat Shah is already released on bail by this Court and all other accused are also released on bail. As far as the applicant is concerned, his role is only to the extent of riding the motorcycle. The bullet was fired by another co-accused. He submitted that the investigation is already completed and charge-sheet is already filed, further incarceration of the present applicant

is not required. In view of that, the applicant be released on bail.

3. Learned APP strongly opposed the application and submitted that as per the allegation on 29/05/2022 at about 9.00 p.m. the informant namely Shakil Ahmed Sabir Ahmed had gone at pan kiosk of one Mr. Boru situated at Kamgar Nagar to watch IPL cricket match. At about 9.15 p.m. when the informant was walking back to his house, two unknown persons aged about 25 to 30 years came from on motorcycle from the back side. The rider of the said motorcycle fired with the country made gun which caused an injury on the neck beneath right cheek of the informant. The said riders had covered their faces by scarf. On the basis of said report, police have registered the crime. He submitted that during investigation, the Investigating Officer has recorded the statements of the various witnesses. The statements of the witnesses especially the statement of Mohd. Sammi Mohammad Sabir and Mohammad Shahid Mohammad Rafiq discloses that it was the present applicant who disclosed to them and on the basis of which the involvement of the present applicant is revealed. During investigation, it further revealed to the investigating agency that the Pistol which was used in the crime was handed over by the present applicant to the co-accused Mohammad Bilal. Said Pistol was recovered from the said Mohammad Bilal during the investigation. Thus, he submitted that there is a *prima*

facie material against the present applicant to connect him with the alleged offence. In view of that, the application deserves to be rejected.

4. I have heard learned Counsel for both the parties. Perused the investigation papers. The injured has sustained the gunshot wound on his neck. During investigation, the statements of the witnesses are recorded to whom the applicant himself has disclosed about his involvement in the alleged incident. Admittedly, the evidence in the nature of the confessional statement is a weak type of evidence but at this stage, the said extra judicial confession is supported by the statement of the present applicant under Section 27 of the Indian Evidence Act, 1872 as well as the report of the Investigating Officer shows that during investigation it revealed that the applicant has handed over the said Pistol to the co-accused Mohd. Bilal and said Pistol was seized from the Mohd. Bilal. Considering the injuries sustained by the injured and the statements of the witnesses which shows the involvement of the present applicant in the alleged offence. As far as the parity is concerned, the case of the present applicant is not equated with the case of the co-accused who are released on bail. The co-accused is released on bail as except the statement of the co-accused there is no other material to connect him with the alleged offence. As far as present applicant is concerned his role is that he fired the bullet towards the injured and the injured

has sustained the injury. In view of that, the application deserves to be rejected.

5. Hence, the application is rejected accordingly.

(URMILA JOSHI-PHALKE, J.)

**Divya*