



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO. 327 OF 2025

Arjun s/o Suresh Mahale,
Aged : 24 years, Occupation Labourer,
R/o Shanishinganapur, Taluka Newasa,
District Ahmednagar.

... Applicant
[Orig. Accused No.9]

Versus

The State of Maharashtra,
Through the Police Station Officer,
Shanishinganapur Police Station,
District Ahmednagar.

... Respondent

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Mr. Nitin Bhavar Patil, Advocate for the Applicant.
Mr. P. K. Lakhotiya, APP for Respondent-State.

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CORAM : ABHAY S. WAGHWASE, J.

Reserved on : 16.04.2025

Pronounced on : 17.04.2025

ORDER :

1. Applicant seeks grant of regular bail on account of his arrest in crime no. 247 of 2024 registered at Shanishinganapur Police Station, District Ahmednagar for offences punishable under Sections 352, 351(3), 351(2), 223, 195(1), 191(3), 191(2), 190, 189(5), 189(4), 189(3), 189(2), 132, 121(2), 121(1), 109 of the Bharatiya Nyaya Sanhita (BNS), Section 135 of the Maharashtra Police Act, Sections 7, 4, 25 of the Arms Act and Section 7 of the Criminal Law [Amendment] Act.

2. Learned counsel pointed out that applicant is arrested in above crime on 25.10.2024. That, incident in question is fallout of quarrel between two groups. That, FIR is filed against both groups. There are cross complaints. It is pointed out that, as regards present applicant, there are mere allegations of instigation. No overt act is attributed to him. He further pointed out that co-accused, namely Bhimraj Mahale and Lakhan Dhage, are beneficiaries of anticipatory bail. Co-accused Rohit Vitthal Kusalkar, Annu @ Suraj Dattatray Kusalkar, Siddharth Santosh Kusalkar, Rohit Dnyanadev Kusalkar and Vikas Vitthal Kusalkar are released on regular bail. Investigation is over. Charge sheet is filed on 21.01.2025 and therefore, further custody of applicant is not required. Lastly, it is pointed out that charge not being framed, future course of trial is uncertain. For all above reasons, he seeks bail.

3. Learned APP strongly opposed by pointing out that learned trial court, while rejecting the application of applicant by order dated 30.01.2025, has granted liberty to the applicant to renew his prayer for bail if trial does not commence by 30.04.2025. Therefore, according to learned APP, applicant should withdraw the proceedings before this Court and approach trial court. On merits, he submits that

role of applicant is crystallized i.e. assault by him on police and moreover, applicant has criminal antecedents including offence under Section 302 of IPC.

4. Heard. Perused the papers. FIR dated 21.10.2024 is at the instance of Police Constable Ajay Thube, wherein he has named in all 15 persons and one unknown person regarding occurrence dated 20.10.2024. In the FIR, present applicant Arjun is shown as accused no.9. Police Constable Ajay Thube reported that, on 20.10.2024 telephonic information was received about a mob having gathered in front of house of Appa Kurhat and there being free fight between two groups and therefore police rushed to the spot. It is reported that 50 to 60 persons, after forming two groups, were assaulting each other and one Vikas Kusalkar was lying injured. It is claimed that when police tried to intervene and to pacify, some persons made telephonic call and further called more persons, who reached there with articles like koyta, country made pistol, iron rod etc. Mahesh Kurhat and Ajay Kurhat allegedly abused police as well as rushed on police. It is alleged that Rohit Kusalkar inflicted blow of koyta on informant, but he managed to save himself. Similar act is attributed to one Sonu Kusalkar also. Specific role of Rohit is getting crystallized.

5. Trial court granted bail to Rohit Vitthal Kusalkar, Annu @ Suraj Dattatray Kusalkar, Siddharth Santosh Kusalkar, Rohit Dnyanedev Kusalkar and Vikas Vitthal Kusalkar by order dated 30.01.2025. Lakhan and Bhimraj are shown to be beneficiaries of anticipatory bail orders passed by this Court on 10.03.2025 in Bail Application Nos. 48 of 2025 and 50 of 2025 respectively. Now investigation is over and charge sheet is already filed in 21.01.2025. Primary oppose to the application is on the ground that there was assault on police, but as stated above, other accused, against whom there are allegations of assaulting police personnel, are shown to be released on bail by trial court itself. No purpose is further shown to be achieved by further detention. Merely on the ground of previous offences by way of antecedents, relief as prayed cannot be refused. Hence, I proceed to pass the following order:

ORDER

- I. The application is allowed.
- II. Applicant be released on bail in connection with Crime No. 247 of 2024 registered at Shanishinganapur Police Station, District Ahmednagar, on executing Personal Bond of Rs. 25,000/- (Rupees Twenty Five Thousand only) with one surety in the like amount, on the following conditions:

- [a] The applicant shall not tamper prosecution evidence.
- [b] The applicant shall not commit any other offence.
- [c] The applicant shall not leave the area of jurisdiction of the concerned police station till conclusion of trial.
- [d] The applicant shall attend the concerned police station twice in every week i.e. on every Monday and Thursday till framing of charge and thereafter, shall regularly attend each and every effective date before the trial court.

[ABHAY S. WAGHWASE, J.]

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