



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO. 1866 OF 2025

Yogesh Subhas Hajabe

Age : 31 years, Occu. Business,

R/o : 140 Nirankar Nagar, Wadgaon Kolhati,

Bajaj Nagar, MIDC Waluj

Tq.& Dist. Chh. Sambhajinagar.

...Applicant

Versus

The State of Maharashtra

Through the Police Inspector,

M.I.D.C. Waluj Police Station, Waluj,

Tal. & Dist. Aurangabad.

...Respondent

Advocate for the Applicant : Senior Counsel Mr. Rajendraa S. Deshmukh a/w

Meenal S. Deshmukh i/by Mr. Nisarg Garje

APP for the Respondent/State : Mrs. D.S. Jape

CORAM : MEHROZ K. PATHAN, J.

DATE OF RESERVING THE ORDER : 20th NOVEMBER, 2025

DATE OF PRONOUNCING THE ORDER : 8th DECEMBER, 2025

ORDER :

1. The Applicant has filed the present application, thereby praying for release on regular bail in Crime No.473/2025 registered with the M.I.D.C. Waluj Police Station, Waluj, Aurangabad for the offences punishable under Sections 3, 25 of the Arms Act, under Section 135 of the Maharashtra Police Act and under Sections 310(2), 317(3) of the Bharatiya Nyaya Sanhita, 2023.

2. The First Information Report came to be filed by one Jagdish Toshniwal with M.I.D.C. Waluj Police Station, thereby alleging that his sister Rakhi and brother-in-law Santosh, who are native of Bajajnagar, were running a company in the name of Disha Auto Component Pvt. Ltd., in M.I.D.C. Waluj. The Informant went to the United Kingdom to attend a program on 07.05.2025. Therefore, one Sanjay Kaduba Zalke was entrusted with the care of the house and the keys. On 15.05.2025, at about 04:30 a.m., when the Informant Jagdish was sleeping, his brother-in-law Santosh called and informed him that Sanjay Zalke, the caretaker, had reported that some unknown persons assaulted him, tied his hands and mouth, threatened him with a pistol, and that six unknown persons had robbed the house. Thus after receiving such information, Informant Jagdish took alongwith him with his friend Mukul Gattani and went to the house of Santosh at about 05:00 am., at that time the care taker Sanjay had informed that unknown persons had robbed the house by committing dacoity. It was further informed that on 14.04.2025 at about 01:00 am. when he went to sleep, the key of the hall was with Zalke and the all rooms were locked, main hall was open for taking rest to Zalke. It was further informed that on 15.05.2025 at about 02:00 am. the thieves entered the house of brother-in-law Santosh and have shown pistol to him and warned not to make noise. When he tried to resist one thief assaulted him on neck and back. The other persons were masked with black cloth and were speaking in Hindi, calling

themselves by the name Guddu Salman. It is further alleged that two of the thieves tied the hands of the Zalke and stood beside him and other 4 broke the door of bedroom and robbed the ornament of the Gold and Silver from the house and also the mobile was taken by them. Thereafter they left the house. Zalke has informed the incident to Santosh Ladda. There was 8 Kg. gold approximately and Biscuits, 40 kg. of Silver ornaments and coins, vessels, etc. Thereafter police came to the spot and investigated and inquired about the incident to Santosh Ladda. Hence the present crime was registered against the Applicants/accused and co-accused.

3. It is the submission of the learned Senior Counsel Mr. Rajendra Deshmukh for the Applicant that 138 grams of gold was recovered from the applicant Yogesh, and one pistol was also shown to have been recovered from him. As regards his criminal antecedents, it is submitted that one offence under Section 307 IPC has been wrongly reflected in the crime chart, whereas the other offences, as evident from the chart annexed to the charge-sheet, pertain to matters other than theft, dacoity, or receiving stolen property. The three offences are under the Bombay Prohibition Act, one under Section 326 IPC, one under Section 324 IPC, and one under Section 376 IPC read with POCSO. The offence under Section 307 IPC has been incorrectly mentioned in the chart, since the applicant Yogesh was not an accused in that case; rather, his father was the accused and was

acquitted therein.

. The learned Senior Counsel Mr. Rajendra Deshmukh submits that there is a discrepancy in the place from where the recovery is made on a memorandum under Section 27 as could be seen from the memorandum form of the Applicant. Thus there is a doubt about the place of the incident. The pistol recovered pursuant to a memorandum under Section 23 of the BSA and the ornaments recovered, namely 138 grams of gold, pursuant to a memorandum under Section 23 of the BSA, are doubtful and therefore liable to be discarded, which would thus leave no evidence against the Applicant. It is further submitted by the learned counsel that the share of the applicant as could be seen from the statement of one Balu Ranmale that the share was only 200 to 250 grams which had come to the account of each accused. The said amount of gold was already recovered and as such. The recovery made at the behest of Applicant Yogesh Subhas Hajabe from his house, after he was already arrested, is doubtful and the advantage shall be given to the Applicant. It is his further submission that the crime chart as against Yogesh, would show that there is no offence of theft, thus the apprehension raised by the learned APP that the Applicant would again indulge into cognizable offences is misconceived and the Applicant can be released on bail.

4. The learned APP vehemently opposes the application of the present Applicant on the ground that there is ample evidence to

bring home the guilt of the present Applicant in the said crime. The learned APP submits that the applicant was one of the accused involved in the commission of the crime. It is alleged that he accompanied the main accused, Amol Khotkar, and others who barged into the house of Santosh Ladda on the date of the incident, and that he was captured in the CCTV footage exiting the premises with Muddemal property. Golden ornaments worth Rs. 3,99,000/- were seized from the applicant, and a car was also recovered from his possession. The pistol is also recovered at the instance of the present Applicant Yogesh. The Applicant is seen conducting a recce on 14.05.2025, one day prior to the incident, in his Kia Seltos car. The other co-accused, Suresh Gangane and Sohail Shaikh, are seen walking around the spot of the incident, as captured in the CCTV footage one day before the incident. It is submitted by the learned APP that Balasaheb Ingole has informed that Santosh Ladda who is a businessmen is having huge amount of gold ornaments in his house and he has left for UK alongwith his family. The said information was given to Aadinath Jadhav. Accused Aadinath Jadhav has given the same information to one Ganesh Gorhale. Ganesh Gorhale has given the same information to Mahesh Gorhale. Mahesh Gorhale has given the said information to Devidas Shinde. Devidas Shinde has given the said information to Yogesh i.e. present Applicant and the present Applicant has given the said information to the main accused criminal history-sheeter, Amol Khotkar, Suresh Gangane, Sohail Shaikh,

Azharuddin Kabiruddin and Mahendra Bidve who had finally committed the said offence of dacoity. There are several CDRs and SDRs to support the allegation and as such the Applicant may not be released on bail. The Applicant led to the recovery of a country-made pistol pursuant to a memorandum under Section 27 of the Evidence Act, which was stated to have been used in the commission of the offence and also led to the discovery of stolen articles in the dacoity. The Applicant has seven criminal cases against him i.e. Crime Nos. 121/2014; 40/2016; 1033/2021; 937/2022; 659/2023 ; 1029/2024; and Crime No.1030/2024.

5. I have gone through the entire evidence as available on record against the present Applicant. The Applicant is seen conducting a recce of the spot where the dacoity was committed, one day prior to the incident, i.e., on 14.05.2025. The CCTV footage panchanama also shows the applicant using a Swift Dzire car, travelling from AS Club to More Chowk. The Applicant has further led to the discovery of pistol which was used while committing the crime and stolen golden ornaments in the offence of dacoity, namely 138 grams of bangles, a necklace, a mangalsutra, jhumkas, tops, and a bracelet. The statements of witnesses show that Applicant committed said crime with main accused Amol Khotkar and the Applicant has played active role in the said crime. The statement of Vyankatesh shows that

Applicant had a pistol and he was a close friend of Amol Khotkar. The driver of the present applicant Balu Ranmale in his statement stated that after the commission of crime the applicant – accused told him about the dacoity, which they have committed and when witness Balu Ranmale asked the applicant how much share you received he said that 200 to 250 grams share he has received. The witness Balu Ranmale has identified Applicant-Yogesh in the CCTV panchanama. The said evidence is sufficient enough in my opinion to prima facie establish the guilt of the present Applicant not only under Section 310 BNS, but also under Section 317(3) of BNS which are both punishable with life imprisonment. The discrepancy in the statement made by Balu Ranmale and the recovery made in the house search of the Applicant, can be appreciated only at the time of leading evidence before the trial Court during the trial.

6. Thus, considering the evidence collected by the prosecution against the present Applicant and also considering the fact that the Applicant has criminal antecedents and there is every likelihood that the Applicant may again indulge into the similar offences and also cause prejudice to the trial, I am not inclined to exercise the discretion to release the Applicant. The application therefore stands rejected.

7. The observations made herein are prima facie in nature and are made only with a purpose to decide the present

application. The said observations may not influence the trial Court or any other proceedings before any other Court.

MEHROZ K. PATHAN
JUDGE

Najeeb/..