



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

BAIL APPLICATION NO. 2136 OF 2024

Shahram @ Sharam S/o Chagan Bhosle

Age: years, Occu.: Labour,

R/o. Kopargaon,

Taluka : Kopargaon, Dist.Ahmednagar.

....Applicant

Versus

The State of Maharashtra

(At the instance Kopargaon Taluka Police

Station, Ahmednagar).

.....Respondent

.....

Advocate for Applicant : Mr. Shaikh Faisal Naseemuddin

APP for Respondent : Ms.Vaishali S.Chaudhari

.....

CORAM : ABHAY S. WAGHWASE, J.

RESERVED ON : 22 JANUARY, 2025

PRONOUNCED ON : 23 JANUARY, 2025

ORDER :

1. Instant application is for grant of regular bail as a result of arrest of the applicant in Crime no.107 of 2018 registered at Kopargaon Taluka Police Station, Dist.Ahmednagar, for offence under Sections 395, 396, 397, 120B, 75, 412, 414 of the Indian Penal Code (IPC) and under Sections 3, 4, 7 read with Section 25 of the Arms Act and under Section 3(1)(i)(ii), 3(2), 3(4) of the Maharashtra Control of Organized Crime Act (MCOCA).

2. Pointing that applicant is arrested in above crime on 09-04-2019, it is emphasized that applicant is behind bars for more than five years. According to learned counsel, in the FIR, initially 5 persons are said to be involved alongwith 7-8 persons and as such over all crime is registered against 13 persons, however, according to learned counsel, there was not T.I. parade nor there is any CCTV footage. That, applicant is arrested on statement of co-accused, who are already released on bail by this Court and orders to that extent are placed on record. That, there is no incriminating material even when entire investigation is over. That, nothing is shown to be recovered at his instance. Learned trial Court rejected the application on the ground of antecedents, however, according to learned counsel, law is fairly settled that same cannot be ground to curtail liberty. For above reasons, learned counsel seeks grant of bail.

3. While opposing the bail application, learned APP pointed out that there are serious charges like conspiracy, MCOCA. That, deadly weapons are used in committing above offence. As regards to present applicant is concerned, there are allegations of pelting stones and he is involved in stealing bike regarding which, crime has been registered. He has bad antecedents and is a history-sheeter. For

above reasons, application is sought to be rejected.

4. Heard. Perused the papers. FIR seems to be at the instance of a Jeweller on 20-08-2018 reporting that on 19-08-2018, while he was closing the shop at 07.45 p.m., five unknown persons appeared before his shop. One was holding pistol, one had sickle, two had wooden logs. The one holding gun, fired and the bullet hit one Kaka Sham Ghadge, who collapsed. Second round was fired in air. Seven to eight persons had also come alongwith above aforesaid five persons and they pelted stones seeing mob gathering near the shop. He has reported that ornaments worth Rs.26,55,000/- being stolen. On above report, crime seems to have been registered against 13 unknown thieves.

5. Submission made before this Court that till date T.I. parade has not been conducted, has not been refuted by prosecution. Learned APP has opposed bail application primarily on the ground that investigation revealed present applicant to be amongst those, who pelted stones and secondly, he is involved in another crime pertaining to stealing motorcycle and there are two cases registered under his belt. Applicant is behind bars since 2019. What is the stage today

after filing chargesheet, is also not informed to this Court by either learned APP or learned counsel for applicant.

6. In the light of above discussion, apparently there being long pre-trial incarceration and when other accused are said to be beneficiaries of regular bail, applicant succeeds on the ground of parity also. Hence, the following order :

ORDER

- (i) Application is allowed.
- (ii) Applicant Shahram @ Sharam S/o Chagan Bhosle be released on bail in connection with Crime no.107 of 2018 registered with Kopargaon Taluka Police Station, Dist.Ahmednagar, on executing Personal Bond of Rs.15,000/- with one surety in the like amount.
- (iii) Applicant shall not tamper prosecution evidence.

(ABHAY S. WAGHWASE)
JUDGE