



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO. 2381 OF 2024

Kiran Madhav Hazare,
Age : 37 years, Occu. : Labour,
R/o. Teen Chari, Kokamthan,
Tq. Kopergaon, Dist. Ahmednagar.

... Applicant

Versus

The State of Maharashtra,
(Through P.I. Police Station, Shirdi,
Tq. Rahata, Dist. Ahmednagar)

... Respondent.

.....
Mr. Satej S. Jadhav, Advocate for Applicant.
Mr. V. M. Chate, APP for Respondent - State.

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CORAM : ABHAY S. WAGHWASE, J.

RESERVED ON : 12 MARCH 2025

PRONOUNCED ON : 13 MARCH 2025

ORDER :

1. Present application is for grant of bail on account of arrest of applicant in Crime No.0394 of 2021 registered at Shirdi Police Station, Dist. Ahmednagar for offence punishable under sections 307, 109, 120-B, 201, 212, 506 r/w section 34 of Indian Penal Code (IPC) and under sections 3/25, 7/25 and 27 of Arms Act and under sections 3(1)(ii), 3(2) and 3(4) of the Maharashtra Control of Organised Crime Act, 1999 (MCOCA).

2. It is submitted that, applicant is arrested in above crime

on 13.12.2021 in connection with occurrence of midnight of 10.12.2021. It is submitted that, allegations are of use of firearms. It is pointed out that, still there are two simple injuries and one grievous injury to the injured. It is pointed out that, there was dispute over conducting business on a rented premises, resulting into alleged incidence. That, both sides i.e. informant side as well as accused side have rivalry. He pointed out that, contents of FIR materially differ than alleged transcript of telephonic conversation, thereby rendering prosecution version doubtful. He further pointed out that, in spite of charge sheet being filed in May 2022, there is no ballistic reports.

3. Learned counsel further pointed out that, applicant is arrested in December 2021 and more than three years have lapsed, but yet charge itself is not framed. That, there is long pre-trial incarceration. That, one or the other count merely case is getting adjourned. He further pointed out that, two of the accused are already granted bail and orders to that extent are placed on record. According to him, applicant being behind bars since more than three years and when nothing further is shown to be recovered or discovered at his instance, more particularly, further detention is unwarranted.

4. Strongly opposing the above application, learned APP submitted that, there is direct eye witness account. That, there is use of firearms. That, applicant was seen firing two rounds suggesting determination to kill. Learned APP took this court through the statement of injured and also emphasized that, applicant has criminal antecedents and as many as 11 crimes are registered against him. Therefore, according to him, considering the magnanimity and gravity of the offence and in view of the observations of the Hon'ble Apex Court in the case of ***Manik Madhukar Sarve and Ors. v. Vitthal Damuji Meher and Ors.*** reported in ***(2024) 10 SCC 753***, in a case having serious allegation, order granted by High Court was cancelled by the Hon'ble Apex Court. He also submitted that, in the same judgment, principles which are led while granting bail, are clearly reflected. Here, some of the factors spelt out therein are clearly available and hence for above reasons, he has opposed grant of relief of bail.

5. Heard. Perused the FIR. Apparently crime is registered for offence punishable under sections 307, 109, 120-B, 201, 212, 506 r/w section 34 of IPC and section 3/25 and 7/25, 27 of Arms Act and section 3(1)(ii), 3(2) and 3(4) of MCOCA. Report dated 10.12.2021 seems to be at the instance of one Sachin Thakur and its substance is that, Suraj Prakash Thakur is his cousin maternal uncle. Since 5 to 6

days, he and his said uncle jointly conducted business in a shop owned by Ravi Nimbalkar on rent basis. That, space in front of the shop was also thought to be put to use for conducting business. But, there was oppose on this count by Kiran Hajare i.e. present applicant and Ravi Gondkar, resulting into quarrel. It is reported that on 10.12.2021, when he and his uncle after paying visit to the house of Nilesh Jadhav, who had lost his uncle, they were having tea near parking of Mayur hotel and at that time, Nilesh Jadhav, his friend Swapnil Bhosale walked to the parking. It is alleged that, around 3:30 p.m., present applicant arrived there in a Ertiga car while occupying left seat of the driver Akshay Lokhande. He further reported that, rear seat was occupied by Tanvir Rangrej and Deepak Gondkar. According to informant, applicant made a telephonic call to Ravi Gondkar and put the mobile phone on speaker and the conversation between them was over heard. He claims that, present applicant questioned Ravi as to what should be done about Suraj Thakur and in response to, it is alleged that, Ravi Gondkar from other side stated that he should be eliminated. After switching off the phone, it is alleged that, applicant asked Akshay, who was behind the wheels, to take out material. As a result of which, Akshay took out two pistols and gave to the applicant and after taking it, it is alleged that, applicant fired on the chest of Suraj Thakur. When Suraj was fleeing, it is further alleged that, present applicant chased him while opening

fire. Therefore, informant and Nilesh Jadhav took Suraj to Saibaba hospital, Shirdi and admitted him. On above report, crime has been registered with Shirdi Police Station.

6. Statement of injured Suraj Thakur is also recorded, but on 27.12.2024 and he has also stated about arrival of present applicant in a car, telephonic conversation between applicant and one Ravi Gondkar, applicant questioning what should be done about injured and Ravi directing that he should be eliminated and thereafter applicant directing Akshay to handover material, after which Akshay handed over two pistols and the same was used in firing. Injury certificate of Suraj is placed on record, which shows two circular puncture wound over sub-costal paramidline and over abdomen. It is certified that, injury nos.2 and 3 are firearm injuries. Injury nos.1 and 2 to be simple in nature and injury no.3 to be grievous.

7. Thus, above material shows that, there is use of firearm and crime is registered for attempt to commit murder by invoking section 120-B of IPC. Dispute seems to be on account of conducting business in open space in front of rented shop.

8. Applicant is arrested in December 2021. Statement is made across the bar by the learned counsel that, in spite of case being committed long back, charge is not yet framed since 2022.

9. Learned APP by taking recourse to above judgment, has opposed primarily on the ground that firstly there are criminal antecedents and secondly offence to be serious in nature. However, in the ruling relied question was grant of bail in offence under sections 409, 420, 467, 468, 471 of IPC and Hon'ble Apex Court was dealing aspect of cancellation of bail granted by High Court. In that case, applicants therein was said to be arrested on 28.04.2021 and High Court had granted bail on 13.10.2021. Be it so. Here, applicant is shown to be arrested in December 2021 and charge is not framed since 2022. For last more than three years applicant is behind bars. Therefore, considering the long list of 81 witnesses, who are yet to be examined, there are no chances of case coming to an end in immediate near future. Hence, applicant succeeds. Accordingly, I proceed to pass the following order:

ORDER

I. The application is allowed.

II. Applicant Kiran Madhav Hazare be released on bail in connection with Crime No.0394 of 2021 registered with Shirdi Police Station, Dist. Ahmednagar, on executing Personal Bond of Rs.

15,000/- with one surety in the like amount, on the following conditions:

[a] The applicant shall not tamper prosecution evidence.

[b] The applicant shall not enter the vicinity where the informant and injured and their family members reside, till conclusion of trial.

[c] The applicant shall not leave the area of jurisdiction of the concerned police station till conclusion of trial.

[d] The applicant shall regularly attend each and every effective date before the trial court.

(ABHAY S. WAGHWASE, J.)