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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL REVISION APPLICATION NO.435 OF 2025

Shahaji Mugutrao Kakade ... Applicant
V/s.
The State of Maharashtra ... Respondent

Mr. Shekhar K. Jagtap with Ms. Sairuchita Choudhary i/by J. Shekhar Associates for the applicant.

Mr. Sagar R. Agarkar, APP with Mr. A.R. Kadam, 'B' Panel Advocate for the respondent-State.

Mr. Telkikar, PSI, Walchand Nagar Police Station, is present.

CORAM	:	**AMIT BORKAR, J.**
RESERVED ON	:	**OCTOBER 15, 2025**
PRONOUNCED ON	:	**OCTOBER 16, 2025**

P.C.:

1. **Rule**. Rule is made returnable forthwith.

2. This criminal revision application challenges the judgment and order dated 7 August 2025 passed by the learned Additional Sessions Judge, Baramati in Sessions Case No. 190 of 2024 below Exhibit 59. By the said order, the learned Judge rejected the applicant's prayer for discharge in respect of offences punishable under Sections 302, 307, 143, 147, 148, 149, 352, 504, 506, and 201 of the Indian Penal Code, 1860 and under Sections 3(25), 29, and 30 of the Arms Act.

3. The prosecution case is that the deceased, Ranjit Eknath Nimbalkar, owned a bullock named "Sundar." The deceased and his wife, Ankita, who is the informant, sold the said bullock to co-accused No.1, Gautam Kakade, and one Santosh Todkar for a consideration of Rs. 37 lakh. Out of this, Rs. 5 lakh was paid as advance, and the remaining Rs. 32 lakh was agreed to be paid on 27 June 2024. This transaction took place in the presence of the informant.

4. On 27 June 2024 at about 11.00 a.m., the deceased Ranjit and Santosh Todkar visited the house of co-accused No.1 Gautam at Nimbut to discuss the pending payment. After the meeting, Ranjit returned home to Phaltan at about 2.00 p.m. He informed his wife that Gautam had asked him to sign a stamp paper without clearing the balance amount. Ranjit refused and told Gautam that he would not sign until the full payment was made. Gautam then asked Ranjit to come again in the evening to collect the balance amount. Later that night, around 9.00 p.m., the deceased Ranjit, his wife Ankita, their daughter, a relative named Vaibhav Kadam, and one Pintu Jadhav left for Nimbut as Gautam had again called them to collect the remaining Rs. 32 lakh. They reached Gautam's house around 11.00 p.m. Discussions took place between Ranjit, Gautam, Ankita, and others. During the talks, Ranjit told Gautam that if he was unwilling to complete the deal, he would return the advance amount and take back the bullock. Thereafter, they proceeded towards their car. At that moment, Gautam said, "I will see how you take the bullock," and called some boys, including his brother Gaurav (accused No.2). Three unknown persons also came there. Gautam then shouted to Gaurav and the others, “Beat him, he is talking too much.” Gaurav had a stick in his hand, which Gautam took and advanced towards Ranjit, hurling abuses. Vaibhav Kadam tried to pacify him and told Gautam that they could discuss the matter the next day. Meanwhile, the three unknown persons continued abusing. Gaurav shouted, “I will see how you take the bullock. I will not let you live,” and fired a bullet at Ranjit’s head from his gun. Ranjit collapsed. He was first taken to Sai Seva Hospital, Waghalwadi, and then to Bhoite Hospital. The informant then went to the police station to lodge a complaint.

5. On the basis of her complaint, Wadgaon Nimbalkar Police Station registered Crime No. 283 of 2024 dated 28 June 2024 against accused Nos. 1 and 2 and three unknown persons for offences under Sections 307, 143, 147, 149, 352, 504, and 506 of the Indian Penal Code, and under Sections 3 and 25 of the Arms Act.

6. Learned counsel for the applicant, Mr. Jagtap, submitted that there is no material connecting the applicant to the offence except for the statement of co-accused No.5, who stated that the applicant asked him to wipe out the bloodstains from the spot. Such a statement, he argued, is not admissible as substantive evidence against a co-accused unless duly corroborated. The prosecution has not produced any material to show that the weapon (a pistol) was used with the knowledge or consent of the applicant. The licence of the pistol stands in the applicant’s name, but mere ownership of a licensed weapon does not prove that the applicant permitted its use for committing an offence. Since accused No.1 is the applicant's son, access to the gun was possible without the applicant's knowledge. Under Sections 29 and 30 of the Arms Act, it was for the prosecution to establish that the licence holder had either unlawfully handed over the weapon or knowingly permitted its misuse. No such evidence exists. Therefore, the applicant is entitled to discharge.

7. The learned APP opposed the revision application. He submitted that, according to the prosecution, on the instruction of accused No.1, accused No.2 fired the pistol at the deceased. The applicant, being accused No.3, directed accused No.5 to destroy the bloodstained evidence at the spot, thereby making himself liable under Section 201 of the IPC. It is further alleged that instead of keeping the pistol securely, the applicant allowed accused No.2 to use it for committing murder. This act, according to the prosecution, shows that the applicant facilitated and abetted the offence. Since the applicant knew that handing over the pistol could result in its misuse, his conduct attracts the provisions of the Arms Act. Hence, the learned Sessions Judge rightly rejected the discharge application.

8. Having considered the submissions of both sides and upon perusal of the record, following reasons and findings arise for rejecting the revision application.

9. The scope of interference at the stage of discharge under Section 227 of the Code of Criminal Procedure is limited. At this stage, the Court is not required to appreciate the evidence in detail or to record findings as to guilt or innocence. The Court has only to see whether there is sufficient material on record to proceed with the trial. If the material, taken at its face value, discloses grave suspicion against the accused, discharge cannot be granted.

10. The record shows that the pistol used in the murder was a licensed weapon standing in the name of the present applicant. This fact is not in dispute. It is also an admitted position that accused No.2, who actually fired the bullet, is none other than the son of the applicant. These two facts, when taken together, raise a serious question about how the licensed pistol came into the hands of the son and was used for committing a serious offence of murder.

11. At this stage, the Court is not expected to hold a detailed trial or come to a final conclusion of guilt. The limited question is whether there is material which creates a reasonable suspicion that the applicant might have had knowledge of, or consented to, the use of his firearm by his son. The investigation shows that the same pistol, bearing the licence of the applicant, was recovered as the weapon used in the offence. This is a circumstance of strong evidentiary value.

12. The law expects every firearm license holder to exercise strict care in keeping his weapon under safe custody. A firearm is not a common household article. It is a deadly weapon whose use is regulated by law. If such a weapon, licensed in the applicant's name, is found to have been used in a murder by a close family member living in the same household, a reasonable inference can be drawn that the weapon was either knowingly made available or not properly secured by the licensee.

13. These facts together form a prima facie basis for presuming that the pistol was either handed over or made available to the co-accused with the knowledge or consent of the applicant. Whether this was done deliberately or due to negligence is a matter to be proved during the trial. But, for the limited purpose of considering discharge, this material is sufficient to raise a strong suspicion regarding the applicant's complicity under Sections 29 and 30 of the Arms Act.

14. Thus, the presence of the applicant's licensed weapon at the scene of crime, the relationship between the applicant and the shooter, and the absence of any immediate explanation as to how the pistol came to be used, together create a clear ground for proceeding against the applicant.

15. The contention that mere ownership of the pistol cannot fasten criminal liability is not acceptable at this stage. Whether the applicant had knowledge of or consented to the use of the weapon is a matter of evidence, which cannot be decided without trial. The prosecution has alleged that the applicant, instead of keeping the weapon in safe custody, allowed its misuse. This allegation, supported by the recovery of the weapon and the circumstances on record, raises a strong prima facie case requiring trial.

16. As regards the allegation under Section 201 of the Indian Penal Code, the statement of co-accused No.5, though requiring corroboration, cannot be completely discarded at this stage. The statement specifically refers to the applicant's direction to destroy evidence by removing bloodstains from the spot. When considered with the chain of circumstances, this statement creates a reasonable suspicion that the applicant attempted to screen the offence. Whether such statement would ultimately result in conviction is a matter of appreciation of evidence during trial, not at the discharge stage.

17. The applicant contends that the statement of co-accused No.5, relied upon by the prosecution, is inadmissible in law since, on the date when the statement was recorded, the said person was not an accused but was subsequently arrayed as such. It is argued that once the maker of the statement himself becomes an accused, such statement loses its evidentiary value and cannot be treated as substantive evidence against a co-accused.

18. The argument proceeds on the well-settled principle that a confessional or inculpatory statement made by one accused cannot be used as substantive evidence against another. At best, such statement can be used for limited corroboration under Section 30 of the Evidence Act, and that too only when both the maker and the person implicated are tried jointly for the same offence.

19. However, it is equally settled that at the stage of considering discharge, the Court does not finally decide the admissibility or evidentiary value of material collected during investigation. The Court is required only to see whether, assuming the material to be true, it discloses grave suspicion against the accused sufficient to justify his trial.

20. In the present case, the statement of co-accused No.5 refers to the applicant's direction to wipe out the bloodstains from the spot immediately after the incident. It was recorded before co-accused No.5 was formally added as an accused. The question whether such statement is admissible or hit by the rule of exclusion will arise during trial when evidence is tested in accordance with the Evidence Act. At this preliminary stage, the Court cannot disregard such material altogether if it forms part of the police record and contributes to a chain of circumstances pointing to the involvement of the applicant.

21. The Sessions Court has rightly observed that even if the statement of co-accused No.5 is taken only as part of the overall material collected, it creates a reasonable suspicion that the applicant participated in concealing the evidence. This suspicion, coupled with the undisputed fact that the firearm used in the offence was licensed in the applicant's name, is sufficient to justify the continuation of proceedings.

22. The principle that inadmissible evidence cannot be looked into must be applied at the stage of appreciation of evidence, not at the stage of charge or discharge. The material on record, including the said statement, cannot at this juncture be conclusively excluded from consideration.

23. Therefore, even after taking into account the applicant's objection on admissibility, the overall material on record still discloses sufficient grounds to presume that the applicant had knowledge of or participated in acts constituting offences under

Sections 29 and 30 of the Arms Act and Section 201 of the Indian Penal Code.

24. The Sessions Court has not committed any illegality or material irregularity in rejecting the discharge application. The argument regarding inadmissibility of the co-accused's statement is an issue to be tested during the trial and cannot be a ground for discharge at this stage.

25. The Sessions Court has correctly observed that the allegations, if taken at their face value, disclose a prima facie case against the applicant under Sections 29 and 30 of the Arms Act for permitting use of his licensed weapon and under Section 201 of the Indian Penal Code for attempting to destroy evidence.

26. The defence that the applicant had no knowledge or that the weapon was taken without his consent is a matter of proof. Such defence cannot be accepted merely on oral submissions without evidence. Discharge cannot be granted on speculative defences or anticipated explanations.

27. The law is clear that where the material placed by the prosecution discloses grave suspicion against the accused, the matter must proceed to trial. The evidence collected, if proved, would be sufficient to establish offences under the Arms Act and Section 201 IPC.

28. The learned Sessions Judge has applied correct legal principles and considered the material in its proper perspective. No perversity, illegality, or irregularity is shown in the impugned order warranting interference in revisional jurisdiction.

29. Hence, this Court finds that the order of the learned Additional Sessions Judge rejecting the discharge application is legal, proper, and supported by reasons. The revision application is devoid of merit and stands rejected.

30. Criminal Revision Application is rejected. Rule discharged.

31. Interim relief, if any, stands vacated.

32. The Trial Court shall proceed to conduct the trial in accordance with law.

(AMIT BORKAR, J.)