

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO.2139 OF 2025

Kaushalkumar Vijendar Yadav ... Applicant

V/s.

The State of Maharashtra ... Respondent

WITH

INTERIM APPLICATION NO.2299 OF 2025

Dhiraj Savjibhai Manjeri ... Applicant

V/s.

The State of Maharashtra ... Respondent

Mr. Shailesh Kharat a/w Mrs. Kalpana V. Ghate a/w Mr. Bharat Shinde, a/w. Mr. Parthraj Ware a/w. Mr. Vinod Kendre a/w Ms. Neha Rathod i/b. Mr. Govind Mundhe, Advocate for Applicant

Mr. Shailesh Kharat a/w Mr. Govind M. Mundhe, Mr. Vinod Kendre, Mr. Bharat Shinde, Mr. Parthraj Ware i/b. Mr. Govind N. Mundhe, Advocate for Applicant

Mr. Y.M. Nakhwa, APP

Mr. Ayush Pasbola, Mr. Sahay and Mr. Gole, Advocate for Intervenor in IA No.2299 of 2025

Mr. Nilesh B. Chavan, API, Nerul Police Station, Navi Mumbai

CORAM : SANDESH D. PATIL, J.

DATE : 20TH SEPTEMBER, 2025.

P.C. :-

1. By the present Bail Application the applicant seeks his enlargement on bail in connection with CR No.I/126/2023 under Sections 302, 120 (b), 34 of Indian Penal Code under Sections 3, 5, 25, 27 of the Indian Arms Act and Section 37 (i) and 135 of the Maharashtra Police Act registered with the Nerul Police Station. The applicant is co-accused No.3.

2. Learned advocate for the applicant contends that applicant was arrested on 18.03.2023 from Bihar. Learned advocate for the applicant relied upon chargesheet, filed on 15.06.2023. He however contends that charges are not yet framed. He also pointed out that accused No. 1 – Mehek Naria, accused No.2 Gaurav Yadav and accused No.5 Rahul are granted bail by this court (**Coram : Milind N. Jadhav, J.**). There are 7 accused who are arrested in the present CR and two accused namely Haresh, Rahul Mandad are absconding.

3. It is further contended that there is no evidence available against the applicant. Learned advocate for the applicant contended that the alleged CCTV footage does not clearly identify the motorcycle number. It could not be ascertained as to who was on motorcycle. Learned advocate for the applicant further argues that only evidence which according to him is against him is CCTV footage. The panchnama dated 14th April 2023 in the opinion of the learned advocate for the applicant is not sufficient to implicate the applicant. Learned advocate appearing for the applicant prays that since bail is already granted by this court to 3 accused, he deserves to be released on bail.

4. Learned Addl. PP Mr. Nakhwa appearing for the prosecution and Mr. Pasbola, learned Advocate for intervenor, both have taken me through the chargesheet in detail. They contended that the statement one Mr. Anubhav Ravindra Bele, who was Electrician was recorded on 25.04.2023. They contended that there were two persons aged about 18 to 20 years, who had open fire on the deceased and ran away on the motorcycle parked over there. They submitted that the present applicant is identified by the witness Anubhav Ravindra Bele in Test Identification parade, which was held on 12.05.2023.

5. They further invited my attention to another witness namely Mukesh Sahani, who stated that co accused Sonu, Gaurav

and accused Kaushal came to reside in his room and they were supposed to leave 3 to 4 days. He stated that on 15.03.2023 at about 7 p.m. they had come to his room and were in panic mode.

6. Having heard the counsel for the respective parties and after going through the chargesheet, which is filed on record, it is clear that the applicant was arrested on 18.03.2023. The applicant is co-accused No.3. The investigation is completed and the chargesheet is filed on 15.06.2023. The charges are not yet framed and accused Nos.1, 4 and 5 are granted bail by this court.

7. I have perused the order dated 5th July 2022, 1st August 2024 and 28th April 2025 passed by this Court by the Single Bench (**Coram : Milind N. Jadhav, J.**). Only eye witness, which is available in this case is one Mr. Anubhav Ravindra Bele, it is important to note that this witness states that he had seen two persons aged about 18 to 20 years firing with pistol. The statement was however recorded on 25.04.2023. It is pertinent to note that the date of incident is 15.03.2023. Thus, the statement of this witness is recorded after One month and Ten days. The said witness though has identified the present applicant in Test Identification Parade on 12th May 2023. As far as Test Identification Parade is concerned admittedly this was also conducted more than 2 ½ months after the date of the incident. Further this court while considering the Bail Application of co-

accused Gaurav Kumar in order dated 28th April 2025 observed as under :-

“The most important fact is that TI parade was conducted 2 and ½ months after the date of incident in which Applicant has been identified. Prima facie it does not rule out the fact that Applicant’s photograph was already appended onto the FIR / the Court Arrest Form in the police station and therefore the said TI parade cannot be conclusive evidence at this prima facie stage, unless complicity of the Applicant is established in trial.”

8. As far as contention regarding CCTV footage is concerned, this Court had while deciding the Bail Application of co-accused No.1 – Mehek Nariya clearly observed that issue of colour of the motorcycle, there is dichotomy in respect to the said motorcycle, whether it was white or black in colour. All these issues would undoubtedly be a matter of trial and evidence. In any event there are circumstantial issues which leave lot to be explained regarding the role of the applicant.

9. As far as next witness Mr. Mukesh is concerned, he mentions that present applicant and two others wanted to leave for their native place and they were panic. This evidence in my respective view would not be sufficient for coming to the conclusion that prima facie present applicant is involved in the offence. Even this evidence is recorded on 31st March 2023.

10. The prosecution has contended that there is recovery at the instance of accused No.2 Sonukumar Yadav. Learned advocate for the applicant had correctly stated that recovery was not from accused No.3, but from accused No.2.

11. According to the learned Advocate for the applicant investigation is over. There is no reason why custodial interrogation of the applicant is required. The fact remains that there are many witnesses which will have to be examined. The charges are also not framed. Applicant is already in jail since more than 2 ½ years. For the reasons mentioned above, I am inclined to grant bail to the applicant.

12. Needless to say that the opinion which is expressed by me is limited only to the extent of granting bail to the present accused only. For the reasons mentioned above, I am inclined to grant bail on the following terms and conditions :-

- (a) The applicant be released on PR Bond of Rs.50,000/- with one or two sureties of like amount.
- (b) The applicant to report the concerned Police Station every 15 days till charges are framed and thereafter on First Sunday of every month between 10.00 a.m. to 12.00 p.m.
- (c) The applicant to attend every hearing of the Trial Court.
- (d) In case the applicant fails to attend two consecutive dates of hearings, the prosecution is at liberty to move for cancellation of bail granted to the applicant.
- (e) Application allowed.

Since the Bail Application No.2139 of 2025 is disposed off, nothing survives in Interim Application No.2299 of 2025 and is accordingly disposed of.

(SANDESH D. PATIL, J.)