

AGK

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

BAIL APPLICATION NO.3076 OF 2025

Anand @ Andy Rajan Cruz	... Applicant
V/s.	
The State of Maharashtra	... Respondent

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Mr. Sachindra B. Shetye with Mr. Irfan A. Shaikh & Mr.
Nipun Sawane for the applicant.

Mrs. Shilpa G. Talhar, APP for the respondent-State.

CORAM : AMIT BORKAR, J.

DATED : AUGUST 18, 2025

P.C.:

1. By the present bail application filed under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 ("BNSS" for short), the applicant seeks his release on regular bail in connection with Crime Register No.545 of 2024 registered with Nerul Police Station. The said crime has been registered for offences punishable under Sections 140(1) and 109(1) of the Bharatiya Nyaya Sanhita, 2023 ("BNS" for short) and under Sections 3 and 25 of the Arms Act, 1959.

2. The prosecution story, as it emerges from the complaint lodged by one Imaad Anwar Khanzada, is that on 22nd August 2024, while he was at Pune at about 10.30 a.m., he received a call from his mother informing him that his elder brother, Aamir Khanzada, who had left home on 21st August 2024 at about 10.30

p.m. in a Maruti Suzuki Baleno car along with one Sumit Jain to meet a client, had not returned home. On receiving such information, the complainant started for Navi Mumbai from Pune. Since a GPS system was installed in the said Baleno car, the complainant tracked its location and found that the vehicle was parked near Khopoli, at the side of the Mumbai–Pune Expressway.

3. The complainant reached the spot where the car was found. The police were already present there. On inspection, the complainant noticed that the rear door glass of the vehicle was cracked and bore a bullet hole. A used cartridge was lying on the back seat and the keys of the car were found inside the vehicle. The complainant immediately reported the said facts to the Senior Police Inspector of Khopoli Police Station. Panchnama was conducted, and samples were collected by the police. During this time, Nerul Police also arrived and informed that a missing person complaint in respect of his brother and Sumit Jain had already been registered with Nerul Police Station. Considering the articles recovered from the vehicle and the fact that both persons were missing, the complainant suspected that an untoward incident, such as kidnapping or an attempt on life, had taken place. Initially, a zero FIR was registered at Khopoli Police Station and thereafter transferred to Nerul Police Station, where it was renumbered as C.R. No.545 of 2024.

4. Learned Advocate appearing for the applicant contends that the only role attributed to the applicant is that he allegedly provided the contact number of the actual shooter to accused No.1. Beyond this limited role, no active participation of the

applicant in the crime has been shown. It is submitted that the applicant was arrested on 26th August 2024. Though the prosecution relies on his past antecedents, it is pointed out that in Crime Register No.59 of 2013, the applicant has already been acquitted. Learned Advocate further submits that considering the nature of his alleged role, further pre-trial detention of the applicant is unwarranted and he, therefore, prays for his release on regular bail.

5. Per contra, learned APP has strongly opposed the bail application. It is argued that the applicant knowingly provided the contact number of the actual shooter to accused No.1, which facilitated the commission of the main offence. This act demonstrates his conscious involvement in the conspiracy. It is further submitted that the applicant has criminal antecedents in the form of Crime Register No.59 of 2013 under the Arms Act. According to the prosecution, such antecedents show his propensity to indulge in serious crimes and, therefore, he is not entitled to the discretionary relief of bail. It is, thus, urged that the application deserves to be rejected.

6. I have carefully considered the rival submissions and also perused the investigation papers placed on record. The prosecution case, at this stage, mainly rests on the allegation that the applicant provided the mobile number of the actual shooter to accused No.1. Except this allegation, there is no material to show that the applicant was present at the spot of the incident, or that he had actively participated in either the alleged shooting or the disappearance of the missing persons.

7. It is true that the offence alleged is grave in nature. However, while considering a bail application, what is required to be seen is whether the role attributed to the applicant warrants his further detention as an undertrial. At this stage, the prosecution has not collected any independent material to show that the applicant shared a common intention with the principal accused to commit the alleged offence. The connection is sought to be established only by providing a contact number.

8. As regards the antecedent relied upon by the prosecution, it is not disputed that in Crime Register No.59 of 2013, though registered under the Arms Act, the applicant has been acquitted. Once an acquittal has been recorded, such antecedent cannot be used to his discredit for denying bail in the present case.

9. The applicant has been in custody since 26th August 2024. The investigation in respect of his role appears to have been substantially completed. The custodial interrogation of the applicant is no longer necessary. The trial is not likely to conclude in the near future. In such circumstances, continued incarceration of the applicant would amount to pre-trial punishment, which is not permissible in law.

10. It is settled law that grant of bail is the rule and refusal is an exception. Unless the prosecution is able to show that release of the applicant on bail will result in tampering of evidence, influencing witnesses, or repeating the offence, bail cannot be denied merely on the ground of seriousness of the allegations. The apprehensions expressed by the prosecution can be taken care of

by imposing strict conditions.

11. Hence, following order is passed:

- i) The bail application is allowed;
- ii) The applicant is directed to be released on regular bail in connection with Crime Register No.545 of 2024 registered with Nerul Police Station for offences punishable under Sections 140(1), 109(1) of BNS and under Sections 3, and 25 of the Arms Act, upon furnishing a personal bond of Rs.50,000/- (Rupees Fifty Thousand Only) with one or more solvent sureties in the like amount, to the satisfaction of the Trial Court, subject to the following conditions:
 - (a) The applicant shall not tamper with evidence, or directly or indirectly contact, influence, threaten, or intimidate any witness, particularly family members of the deceased.
 - (b) The applicant shall report to the Nerul Police Station twice a month, specifically on the 1st and 15th day of each month, between 10:00 a.m. and 12:00 noon, until further orders.
 - (c) The applicant shall not leave the territorial jurisdiction of the State of Maharashtra without prior written permission of the Trial Court.
 - (d) The applicant shall not commit any offence or engage in any criminal activity during the pendency of the trial.

(e) The applicant shall, at the time of furnishing surety, provide his current residential address and mobile number to the Investigating Officer as well as the Trial Court, and shall inform the Court in writing of any change in residence or contact details during the pendency of the case.

(f) In case of any breach of the conditions mentioned above, the prosecution shall be at liberty to move for cancellation of bail.

12. The bail application is allowed and disposed of.

(AMIT BORKAR, J.)