

Ashish

ASHISH
SAHEBRAO
MHASKE

Digitally signed
by ASHISH
SAHEBRAO
MHASKE
Date:
2025.10.06
17:48:56 +0530

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

BAIL APPLICATION NO.3606 OF 2025

Rajesh Vijay Shelke	... Applicant
V/s.	
State of Maharashtra	... Respondent

Mr. Nitin Sejpal a/w Mrs. Pooja Sejpal, Mr. Siddharth Gharat & Mr. Shir Patel for the applicant.

Mr. Sagar Agarkar, APP for respondent – State.

Mr. DD. Jadhav, PSI, Mangao Police Station.

CORAM : AMIT BORKAR, J.

DATED : OCTOBER 6, 2025

P.C.:

1. This application is filed under Section 439 of the Code of Criminal Procedure, 1973, seeking regular bail. The applicant is in custody in connection with Crime Register No. 28 of 2022 registered with Mangaon Police Station for offences punishable under Sections 307 and 120-B read with Section 34 of the Indian Penal Code and Sections 3 and 25 of the Arms Act.

2. The prosecution case, in short, is that the complainant, Deepak Ramkishore Yadav, has been working as a helper at the medical shop of one Gyananchand Jutbandhan Jaiswal, situated at Soni Medical, Morba Road, Mangaon, for the past one and a half years. The owner, Gyananchand Jaiswal, resides with his wife, son, and daughter.

3. On 12 February 2022, at about midnight, the complainant and the son of the medical shop owner closed the shop and started walking home. Around 12.10 a.m., when they reached near Sharda Sweet Mart on Kacheri Road, one black Pulsar motorcycle stopped near them. The rider was wearing a black helmet, and another unknown person was sitting behind him. The rider asked for directions to Indapur. While the son of the shop owner was giving directions, the pillion rider took out a pistol and fired at him, hitting him on the right side of the stomach. Both assailants then fled towards the Mumbai–Goa National Highway.

4. As the son of the shop owner sustained injuries, the complainant sought help, but no one was nearby. He then called the shop owner to inform him of the incident. A short while later, a police jeep passed by, which the complainant stopped and requested assistance. The injured was immediately taken to Raut Hospital, Mangaon, and later shifted to Mumbai for further treatment.

5. On the basis of the complaint lodged by Deepak Ramkishore Yadav, the police registered the present offence at Mangaon Police Station.

6. The learned Advocate for the applicant submitted that the applicant was arrested on 28 February 2022. The charges were framed on 11 May 2022. However, no witnesses have been examined till date. He referred to an earlier order of this Court dated 15 October 2024, which had granted liberty to the applicant to renew his request for bail before the Trial Court after nine

months. The applicant accordingly moved a fresh application, but the same came to be rejected. It is further submitted that the applicant has only one previous case under Section 307 read with Section 34 of the IPC.

7. It is submitted that the only role attributed to the applicant is that he was driving the motorcycle on which the co-accused, who allegedly fired the shot, was sitting. The applicant has been in custody for more than three and a half years. The prosecution has cited 29 witnesses. Therefore, the trial is unlikely to conclude in the near future.

8. The learned APP opposed the application. He submitted that the offence is serious in nature and that, even if the applicant was driving the motorcycle, the ingredients of Section 34 of the IPC are clearly attracted. Considering the applicant's antecedent, there is a likelihood that he may commit a similar offence if released on bail. Hence, the learned APP prayed for rejection of the bail application.

9. I have considered the submissions of both sides and perused the record. The material on record shows that the incident occurred on 12 February 2022, and the applicant has been in custody since 28 February 2022, i.e., for more than three and a half years. The trial has not yet commenced, and no witness has been examined, though charges were framed as early as on 11 May 2022. The prosecution has cited 29 witnesses. It is therefore evident that the trial is not likely to conclude in the near future.

10. The principal allegation against the applicant is that he was driving the motorcycle on which the co-accused was seated, who

allegedly fired the shot at the victim. The allegation does not attribute to the applicant any direct act of firing or assault. His role is limited to driving the vehicle. Prima facie, there is no material to show that the applicant was armed or that he shared any pre-arranged plan or common intention beyond accompanying the co-accused.

11. The applicant has only one previous case of a similar nature. However, the antecedent alone, without supporting material indicating the likelihood of his repeating the offence, cannot justify his continued detention, particularly when the trial is delayed. The Supreme Court has consistently held that the right to a speedy trial is an essential part of Article 21 of the Constitution. Detention that becomes punitive rather than preventive offends the principle of personal liberty.

12. The investigation is complete, and the charge-sheet has been filed. Therefore, the possibility of tampering with evidence or influencing witnesses is remote. The applicant has been in custody for a substantial period, and further detention will serve no purpose.

13. The apprehension expressed by the prosecution that the applicant may commit a similar offence can be addressed by imposing strict conditions. Bail is not to be denied as a form of punishment. The object of bail is to secure the presence of the accused during trial and to ensure that he does not misuse his liberty.

14. Having regard to the nature of allegations, the limited role attributed to the applicant, the period of custody already undergone, and the delay in progress of the trial, this Court is of the opinion that the applicant deserves to be released on bail, subject to appropriate conditions to ensure his presence during trial and to prevent misuse of liberty.

15. Hence, following order is passed:

i) The applicant is directed to be released on regular bail in connection with C.R. No. 28 of 2022, registered with Mangaon Police Station, upon furnishing a personal bond of Rs.25000/- (Rupees Twenty Five 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.

(b) The applicant shall appear before the Trial Court on every date of hearing unless exempted.

(c) The applicant shall not leave the territorial jurisdiction of the State of Maharashtra without its prior written permission.

(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.

16. The bail application is allowed and disposed of.

(AMIT BORKAR, J.)