

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

Anticipatory Bail Application No.2201 of 2025

Shubham Kailas Kamthe
Age: 30, Occ.: Labour,
R/at: Near Zila Parishad School,
Kadamvak Vasti, Loni Kalbhor, Pune ... Applicant

versus

The State of Maharashtra
(At the instance of Loni Kalbhor
Police Station, Pune,
Vide C.R. No.89 of 2025) ... Respondent

Mr Smith Shinde, for the applicant, through VC.
Mr SV Wagh, APP, for the respondent/ State.
API Somnath Nale, Loni Kalbhor Police Station, Pune City, is
present.

**Coram: R.N. Laddha, J.
Date: 22 August 2025.**

P.C.:

By this application, the applicant seeks pre-arrest bail in connection with CR No.89 of 2025, registered at Loni Kalbhor Police Station, Pune City, for offences punishable under Sections 3 and 25 of the Arms Act, 1959, and Sections 37(1)(a) read with 135 of the Maharashtra Police Act, 1951.

2. It is the case of the prosecution that on 14 February 2025, after receiving confidential information, the co-accused was found in possession of an unlicensed and country-made pistol and one live cartridge in violation of the prohibition order dated 31 January 2025 issued by the Joint Commissioner of Police, Pune. During the course of the investigation, it was revealed that the applicant is the supplier of the seized firearm and cartridge.

3. Mr Smith Shinde, the learned Counsel appearing on behalf of the applicant, asserting the applicant's innocence, contends that the applicant has been falsely implicated in the crime. He submits that the applicant is not named in the FIR and that no incriminating material was recovered from the applicant. The applicant is implicated solely based on the statement of the co-accused. The learned Counsel further submits that the alleged firearm has already been seized, and nothing remains to be recovered or discovered from the applicant, unwarranting his custodial interrogation. The applicant is ready and willing to comply with any conditions this Court may impose.

4. Mr SV Walve, the learned Additional Public Prosecutor representing the respondent/ State, opposing the applicant's

request for pre-arrest bail, contends that the offence is of a serious nature. He submits that the applicant's role in the commission of the offence came to light during further investigation. The applicant is the supplier of the firearm and cartridge, and resides in the same vicinity as the co-accused. The applicant and the co-accused were in continuous contact with each other during the relevant time. The investigation is at a nascent stage, and the applicant's custody is necessary to ascertain the entire supply chain, including the manufacturer of the seized articles. The learned APP further emphasises that the applicant has criminal antecedents, of which two are registered under the Maharashtra Control of Organised Crime Act, 1999. He further submits that the present crime was committed by the applicant when he was granted bail under another offence. Furthermore, the delay in filing the present application remains unexplained. The learned APP highlights that the learned Sessions Court rejected the applicant's request for pre-arrest bail on 29 March 2025, and the applicant approached this Court only on 5 August 2025. If the applicant is granted pre-arrest bail, he may tamper with the evidence or influence witnesses.

5. This Court has given anxious consideration to the rival contentions and perused the records.

6. It is a settled position in law that the power to grant anticipatory bail is extraordinary and must be used with caution and discretion, based on the specific facts of each case. Unlike regular bail, it cannot be treated as a general rule. Courts must avoid a one-size-fits-all approach, as granting such pre-arrest bail in serious cases may affect the investigation. These aspects are also highlighted in the decision of the Hon'ble Supreme Court in *Srikant Upadhyay & Ors. Vs State of Bihar & Anr.*, 2024 SCC OnLine SC 282.

7. Upon a careful perusal of the case records, it appears that on 14 February 2025, the co-accused was apprehended in possession of an unlicensed firearm, namely a pistol, along with one live cartridge. The possession of such arms without valid authorisation constitutes a clear violation of Section 3 of the Arms Act, 1959, which mandates that no person shall acquire, possess, or carry any firearm or ammunition except under a license issued in accordance with the provisions of the Act. Consequently, the said act attracts penal liability under Section 25 of the Arms Act, 1959, which prescribes punishment for acquisition and possession of arms and ammunition in contravention of Section 3 thereof. In addition, the conduct of the co-accused is in direct breach of the Prohibitory Order dated 31 January 2025 issued by the Joint Commissioner of

Police, Pune, under Section 37(1)(a) of the Maharashtra Police Act, 1951. The said order expressly prohibited the carrying or possession of weapons, including clubs, spears, swords, rods, sticks, firearms, and any implement capable of causing bodily harm, for a period commencing at 00:01 hours on 4 February 2025 and concluding at 24:00 hours on 17 February 2025. The violation of this order constitutes an offence punishable under Section 135 of the Maharashtra Police Act, 1951. Further investigation has disclosed material indicating that the applicant was the supplier of the aforementioned seized articles to the co-accused, thereby actively facilitating the commission of the offence in conscious disregard of the prevailing prohibition. On a *prima facie* evaluation, the record reveals sufficient material implicating the applicant in the commission of offences under the Arms Act, 1959, and the Maharashtra Police Act, 1951.

8. It is also pertinent to note that the applicant has a history of criminal antecedents involving similar offences. The present act was allegedly committed shortly after the applicant was released on bail in a previous matter, thereby demonstrating a pattern of habitual offending and disregard for the rule of law. Moreover, the applicant's earlier application for anticipatory bail was rejected by the Sessions Court on 29 March 2025. The present application, filed belatedly on 5 August 2025, is devoid

of any cogent explanation for the delay in approaching this Court. During the intervening period, the applicant remained absconding and failed to cooperate with the investigating agency, thereby obstructing the progress of the investigation. Such conduct reflects a deliberate evasion of the legal process and a lack of *bona fides*, which militates against the grant of discretionary relief under Section 482 of the BNSS.

9. In cases involving the unlawful possession and suspected distribution of firearms and ammunition, it is imperative to conduct a thorough and expeditious investigation to uncover any larger nexus relating to the illicit manufacture, supply, and circulation of such weaponry. Considering the gravity of the offence, the nascent stage of the investigation, and the potential threat to public safety and order, custodial interrogation of the applicant is deemed essential for effective fact-finding and recovery.

10. In light of the foregoing circumstances, this Court is not inclined to exercise its discretion in favour of the applicant. Accordingly, the application for anticipatory bail stands rejected.

[R.N. Laddha, J.]