

AGK

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.4079 OF 2024

Amit Kishor Sinha @ L.P.	... Applicant
V/s.	
The State of Maharashtra	... Respondent

WITH
INTERIM APPLICATION NO.419 OF 2025
IN
BAIL APPLICATION NO.4079 OF 2024

Deepak Bhaskar Khambit	... Applicant
In the matter between	
Amit Kishor Sinha @ L.P.	... Applicant
V/s.	
The State of Maharashtra	... Respondent

Mr. Sushan N. Mhatre for the applicant (appointed as Legal Aid).

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

Mr. L.M. Shukla with Ms. Aarti R. Dharamsey for the applicant-intervener in IA.

CORAM : AMIT BORKAR, J.

DATED : AUGUST 19, 2025

P.C.:

1. By the present bail application filed under Section 439 of the Code of Criminal Procedure, 1973 (hereinafter referred to as "Cr.P.C."), the applicant prays for grant of regular bail in connection with Crime Register No.1050 of 2021 registered at

Kasturba Marg Police Station, Mumbai. The offences alleged are punishable under Sections 307, 324, 34, 120-B and 201 of the Indian Penal Code, 1860 ("IPC" for short), Sections 3, 25 and 27 of the Arms Act, and Sections 37 and 135 of the Maharashtra Police Act.

2. The case of the prosecution, in brief, is that on 29th September, 2021, the first informant, accompanied by his driver, left his residence at about 9.20 a.m. in his motor car bearing registration No. MH-04-EP-0450 to reach his office. After completing his work, he left the office around 5.40 p.m. and occupied the rear left seat of the car. At about 6.10 p.m., while taking a U-turn under the bridge on the Western Express Highway, the vehicle slowed down, and the informant leaned towards the left. At that time, he noticed two unknown persons riding a motorcycle, the pillion rider pointed a pistol at him and fired towards the car, causing the left rear window glass to shatter. The driver immediately attempted to take a U-turn, but the assailants followed and again fired at the vehicle before fleeing towards Dahisar. The car was then parked to safety. On examining himself, the informant noticed injuries on the left side of his face and body. A bullet/pellet was also found lying on the ground, which confirmed that a firearm had been used against him.

3. Learned counsel appearing for the applicant submitted that the applicant was arrested on 4th October, 2021 and charges came to be framed only on 1st March, 2025. The prosecution has cited as many as 138 witnesses. However, it is his grievance that even after framing of charges, the applicant was not produced before

the trial Court on several occasions. It is pointed out that there is no recovery made from the applicant. The CCTV footage relied upon by the prosecution pertains to a spot located nearly 3 to 4 kilometres away from the scene of offence, and not of the actual place of incident. It is further urged that the person alleged to be the main conspirator has already been discharged. Though the applicant has eight prior criminal cases (antecedents) registered against him, in most of them he has been acquitted. Even in the case under the Maharashtra Control of Organised Crime Act (MCOCA), the applicant has been acquitted. In these circumstances, learned counsel prays that the applicant deserves to be enlarged on bail.

4. On the other hand, learned APP representing the State, as well as learned counsel for the victim, have opposed the application. It is their submission that there is direct evidence against the applicant not only from the victim himself but also from as many as ten other eye-witnesses who have seen the incident. It is stated that though initially the prosecution had cited 138 witnesses, the number of material witnesses can be brought down to around 54, and examination of such witnesses would not take an unduly long time. They submit that the applicant has eight criminal antecedents, and if released on bail, there is a strong likelihood that he would influence or threaten the witnesses. As regards the discharge of the conspirator, it is explained that there was no direct evidence against him, whereas in the present case, the material on record directly points to the applicant. It is also brought to the notice of this Court that in a bail application

preferred by a co-accused, the Hon'ble Supreme Court had stayed the trial for more than a year, thereby delaying the progress of the case. In the above background, it is strongly urged that considering the nature of accusations and the antecedents of the applicant, no indulgence be shown, and the present bail application be rejected.

5. I have heard the submissions of the learned counsel for the applicant, the learned APP for the State, and the learned Advocate appearing for the victim. I have carefully perused the papers of investigation and the material placed before this Court.

6. At the outset, it must be noted that the offences alleged against the applicant are grave in nature. Section 307 of IPC, which deals with attempt to murder, carries a severe punishment. The allegations of use of firearms and attack in a public place cannot be taken lightly. However, the principle governing the grant of bail has been settled by the Supreme Court in a catena of decisions. In *Gudikanti Narasimhulu v. Public Prosecutor, High Court of Andhra Pradesh* [AIR 1978 SC 429], Justice V.R. Krishna Iyer observed that the basic rule is "bail, not jail", except where there are circumstances suggestive of the accused fleeing justice or tampering with evidence or repeating offences.

7. The applicant has been in custody since 4th October, 2021. Thus, he has already undergone incarceration for nearly three years and ten months. Charges were framed only on 1st March, 2025. The prosecution initially cited 138 witnesses, though it is now stated that material witnesses may be around 54. Even then, considering the pace of trial and the number of witnesses, early

conclusion of trial appears unlikely. The prolonged pre-trial detention is an anathema to the concept of liberty guaranteed under Article 21 of the Constitution, and bail should not be denied merely on the ground of seriousness of the allegations, when trial is not likely to conclude early.

8. As regards the evidentiary aspect, no recovery has been made from the applicant. The CCTV footage relied upon by the prosecution does not relate to the place of the incident, but is from a location 3 to 4 kilometres away. The victim and other witnesses are yet to depose, and their testimony will be tested during trial. At the stage of considering bail, the Court is not required to assess the probative value of the evidence in detail.

9. The antecedents of the applicant have been pressed into service by the prosecution. The record shows that the applicant has eight prior cases against him. However, the learned counsel for the applicant has rightly submitted that in some of those cases he has been acquitted, including in a case under MCOCA. The presence of antecedents by itself is not an absolute bar to bail, particularly when they do not show a continuing pattern of similar offences. The weight of antecedents has to be assessed in the light of their outcome.

10. The apprehension of the prosecution that the applicant may influence witnesses is not unfounded, but it can be safeguarded by imposing strict conditions. The possibility of tampering with witnesses is a relevant consideration, but cannot be a ground to deny bail in perpetuity when adequate safeguards can be imposed.

11. On an overall conspectus of the matter, this Court is satisfied that the applicant has undergone substantial incarceration, the trial is unlikely to conclude in the near future, and the evidence against him is a matter to be established during trial. The balance tilts in favour of granting bail, subject to stringent conditions to ensure that the applicant does not misuse the liberty.

12. 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.1050 of 2021 registered with Kasturba Marg Police Station, Mumbai for offences punishable under Sections 307, 324, 34, 120(B), 201 of the Indian Penal Code, 1860 ("IPC" for short) and Section 3, 25, and 27 of the Arms Act and Section 37 and 135 of the Maharashtra Police 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 Karurba Marg Police Station, Mumbai 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 enter the territorial jurisdiction of the Trial Court until further orders, except for marking presence and attending trial.

(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.

13. The bail application is allowed and disposed of.

14. The interim application also stands disposed of in terms of this order.

(AMIT BORKAR, J.)