



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL APPLICATION (BA) NO.169 OF 2025

Wasim @ Chirya s/o Afzal Sheikh
Vs.

State of Maharashtra, through Police Station Officer, Police Station
Lakadganj, Nagpur

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. R. M. Daga, Counsel for the applicant.
Mr. M. K. Pathan, APP for the non-applicant/State.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 01/04/2025

1. The applicant came to be arrested on 23.04.2024 in connection with Crime No. No.236/2024 registered with Police Station Lakadganj, Nagpur for the offence punishable under Sections 147, 148, 307, 385, 452, 506(2), 201 and 212 read with Section 149 of the Indian Penal Code and under Sections 3, 5, 25, 27 of Indian Arms Act and under Section 135 of the Maharashtra Police Act.

2. As per the allegation levelled in the First Informant Report that on 21.02.2024 the applicant i.e. the present applicant along with other accused persons have entered into the house of the complainant at 2.00 a.m. thereafter the present applicant slapped the informant and took out the pistol and raised it towards the informant and

threatened him to pay Rs.1,00,000/- or else he would kill him, and thereafter, fired a bullet. On the basis of the said report, the police have registered the crime against the present applicant.

3. Heard learned Counsel for the applicant, who submitted that as far as the role of the present applicant is concerned, which is only to the extent of threatening. None has sustained the injury in the alleged incident. He further invited my attention towards the fact that the FIR was lodged after one month of the said incident and there is no explanation to that effect. He further invited my attention towards the various statements and submitted that considering the fact that no *prima facie* case is made out against the present applicant. Mere criminal antecedents are not sufficient to reject the bail application. In view of that, the applicant be released on bail.

4. Learned APP strongly opposed for the same and invited my attention towards the recitals of the FIR wherein he submitted that the explanation is given by the informant that due to the threatening, he and his family members were scared, and therefore, the FIR is not lodged immediately. He further invited my attention towards the spot panchanama and submitted that the mark of the firing of the bullet is seen at the time of spot panchanama as well as the bullet was also seized

from the spot of incident. The personal search panchanama of the present applicant also shows that the firearm as well as the bullet and cartridges are seized from his person. There are criminal antecedents and as ten offences are registered against the present applicant of a similar nature. In view of that, the application deserves to be rejected.

5. After hearing both sides and on perusal of the investigation papers, it reveals that the involvement of the present applicant reveals from the investigation papers which shows that the applicant has entered in the house of the informant and fired a bullet. The signs of the firing of the bullet are also witnessed at the time of the spot panchanama. Admittedly, now the investigation is already completed, charge-sheet is filed. The Forensic report is yet to be received. Learned Counsel for the applicant placed reliance on the decision of this Court in **Ajay Vishnu Bhoir and Ors. Vs. The State of Maharashtra** reported in **2021 ALL MR (Cri) 3979** wherein it is observed that in any case, in an offence under Section 307 of the IPC, the intention of the assailants is important rather than the nature of injury. Clear roles have been attributed to Accused Nos.1 and 2 as assaulting by means of weapons in their hands and for the roles, which is assigned to them in the charge-sheet, they will have to face the necessary consequences. However, for the present, since the investigation is over and Applicant No.1 is

arrested on 22/04/2021 and Applicant Nos.2 to 4 are arrested on 28/06/2021, they are entitled to be released on bail subject to the stipulation that they shall not enter in the territorial jurisdiction of Thane District until the charge is framed.

6. He submitted that similarly some conditions can be imposed on the present applicant also. In support of his contention he further placed reliance on **Maulana Mohd. Amir Rashadi Vs. State of U.P. and Anr.** in Criminal Appeal No.159/2012 [arising out of S.L.P. (Cri.) No.10244/2010 and **Ganesh Janardhan Gore Alias Ganya Vs. State of Maharashtra** reported in **ABC 2019 (I) 277 Bom.**

7. Thus, considering the fact that the involvement of the present applicant reveals from the investigation papers, but considering now the investigation is already completed, charge-sheet is filed, but the fact that there are similar types of the offences which are ten in number are registered that can also be taken into consideration. In view of that, the application deserves to be allowed by imposing certain conditions. Accordingly, I proceed to pass following order:

ORDER

(i) The application is allowed.

(ii) The applicant **Wasim @ Chirya s/o Afzal Sheikh** shall be released on bail in

connection with Crime No. No.236/2024 registered with Police Station Lakadganj, Nagpur for the offence punishable under Sections 147, 148, 307, 385, 452, 506(2), 201 and 212 read with Section 149 of the Indian Penal Code and under Sections 3, 5, 25, 27 of Indian Arms Act and under Section 135 of the Maharashtra Police Act, on executing PR Bond in the sum of Rs.25,000/- with one solvent surety of the like amount.

(iii) The applicant shall not enter into the vicinity of Nagpur except attending the proceeding before the trial Court till the culmination of the trial.

(iv) The applicant shall furnish his details where he is intending to reside after he is released on bail along with the address proof.

(v) The applicant shall not induce, threat or promise any witnesses who are acquainted with the facts of the case.

(vi) The contravention of any of the conditions would lead to the cancellation of bail.

(vii) The applicant shall surrender his passport if he is having before the trial Court.

The application is disposed of.

(URMILA JOSHI-PHALKE, J.)