IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO. 3350 OF 2025

Paravej Akhbarali Shaikh …Applicant

Versus

The State of Maharashtra …Respondent

WITH

CRIMINAL BAIL APPLICATION NO. 2700 OF 2025

Sunil Ramchandra Waghmare …Applicant

Versus

The State of Maharashtra …Respondent

Mr. Sumeer Gemnani, Mr. S.R. Pitale for the Applicant in BA 3350/2025

Mr. Veeradhawal Deshmukh a/w Ameyprasad Atigre for the Applicant in BA 2700/2025

Ms. Veera S. Shinde, APP for the Respondent-State.

CORAM: R. M. JOSHI, J.

DATED: 06th APRIL, 2026

PC:-

1. Since, both applications are arising out of the same matter. By consent of both sides heard and decided together.

2. Applicants seeks bail in connection with CR No. I-23 of 2024 registered with Kalyan Taluka Police Station for the offence

punishable under Sections 302, 323, 504, 506 r/w Section 34 of the Indian Penal Code,1860, and Sections 3 and 25 of the Arms Act,1989 and Sections 37(1)(3) and 135 of the Maharashtra Police Act, 1951.

3. In short, it is the case of the prosecution, on the basis of information received from the mother of the deceased that she was told by Ganesh Mali- son about the occurrence of the incident on 08.01.2021 after 10:00 p.m. It is alleged that the applicant - Paravej Shaikh had a country-made revolver with him after dispute occurred between deceased and the accused persons, while they were consuming beer the applicant Paravej Shaikh took out the country made revolver. There is further allegation that co-accused Rohit Bhalekar, took the said fire arm from him. The allegation against the applicant-Sunil Waghmare that he has instigated Rohit to shoot at the deceased. Rohit, accordingly shoot single bullet at the deceased. He was taken to the Central Hospital Ulhasnagar, Mumbai he however, succumbed to the injuries. During the investigation, statements of informant as well as eye-witnesses came to be recorded under Section 101 of Cr.P.C. The weapon was seized at the instance of the co-accused, the same was sent for basaltic examination. On conclusion of the investigation,

chargesheet came to be filed.

4. Learned counsel for the applicant submits that except for the offence of possessing the weapon contrary to the arms act, no offence can said to have been made out applicant- Paravej. In so far as applicant-Sunil is concerned, it is argued by his counsel that there was no motive for the applicant to kill the deceased and hence, the question of him instigating co-accused to fired shoot at the applicant does not arise. They also drew attention of the Court to the statement of informant i.e. mother of the deceased which indicate that applicant and co-accused who took deceased to the hospital and which according to them does not show intention of accused to kill the deceased. They also pointed out to the Court that the First Information Report is hearsay in nature and most importantly the statement of the another son of the informant who told about the incident to the informant has not been recorded by the police.

5. Learned counsel for the applicant- Paravej pointed out to the Court that there are grave discrepancies in the investigation as the allegation against co-accused of having fired a shot /bullet from country-made revolver whereas recovery of Pistol is being shown.

6. Learned APP, opposed the application by pointing out

statement of Ganesh Mali which according to her, indicates specific role of both applicant in the crime in question. Apart from the said facts she submits that the applicants have criminal history and there are six offences each registered against them. *Prima-facie,* perusal of the record indicates that the incident in question even as per the case of the prosecution has occurred spontaneously when the dispute arose between accused person and the deceased while they were consuming beer. Apart from the said dispute nothing is shown by the prosecution in order to attribute any motive to the applicant to kill the deceased. Even as per the case of the prosecution, the applicant has not fired any shoot at the deceased. In order to instigate the co-accused there ought to have been an motive/ intention for applicant-Sunil to kill the deceased *prima-facie* the said intention is absent. This court finds no reason to discard the contention of counsel for the applicant that the possibility of the incident in question in the spur of the movement, as all of them including deceased were drunk, is not ruled out. This contention gets supports from the statement of informant-mother of the deceased, which shows that applicants took the deceased to the hospital.

7. Once there is no intention/motive for the applicant to kill

the deceased and when admittedly, they are not the one who shoot the bullet on the deceased, it will be difficult to attribute the offence of murder against them. In addition thereto there is apparent discrepancy in the weapon of assault i.e. Pistol seized or country-made revolver used as per witnesses.

8. Having regard to these facts, this Court finds no impediment in granting bail to the present applicants. Considering the antecedents against them, appropriate conditions needs to be imposed.

9. Hence, the following order:-

ORDER

i) Criminal Bail Application No. 3350 of 2025 and Bail Application No. 2700 of 2025 are allowed.

ii) In connection with CR. No. 93 of 2025 the Applicant Paravej A. Shaikh and Sunil R. Waghmare be enlarged on bail on furnishing PR Bond of Rs. 15,000/- with one surety in the like amount.

iii) The applicant shall attend concerned police Station First Monday each month between 11:00 am to 3:00 p.m. till the

conclusion of the trial.

iv) The Applicant shall attend every date of hearing before the Trial Court unless exempted by specific order.

v) Applicant not to contact with victim or any witness, in any manner whatsoever.

vi) Any breach of this conditions will result the vacation of this order and the applicant(s) shall be taken in custody for undergoing the remaining sentence.

vii) The observations made in this order are *prima-facie* in nature and will not bind parties or Trial Court during trial.

(R. M. JOSHI, J.)