



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

CRIMINAL APPLICATION [BA] NO. 31 OF 2026.

Harsh Abhay Gajbhiye

-VERSUS-

State of Maharashtra.

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders

Shri A. Hunge, Advocate for the Applicant.
Ms T. Udeshi, A.P.P. for the Non-applicant.
Shri P.K. Sathianathan, Advocate Assisting Prosecution.

CORAM : M.M. NERLIKAR, J.

DATE : FEBRUARY 04, 2026.

Heard.

2. The applicant came to be arrested in connection with Crime No.11/2024 registered with Gondia City Police Station, Gondia for the offence punishable under Sections 307 read with Section 34 of the Indian Penal Code and Sections 3 and 25 of the Arms Act. Charge sheet came to be filed and Section 120-B of the Indian Penal Code came to be added.

3. The first information report came to be lodged by Lucky Yadav, alleging that on 11.01.2024 when he was on his way, he saw his uncle Lokesh Yadav falling down on the road from the motor

cycle, and one motorcycle having two riders, proceeding towards his house. His uncle shouted to catch those persons as they have shot him, however, since the motorcycle was being driven at a high speed, it could not be caught. The injured was taken to the hospital. On the basis of this information, first information was registered for the aforesaid offences.

4. The learned Counsel for the applicant submits that there is absolutely nothing in the charge sheet in order to connect the present applicant with the alleged crime. The only basis is statement of co-accused Prashant and Nitesh, due to which he has been arrayed as an accused, except for that, there is nothing on record. Even from perusal of statement of co-accused Prashant, it would reveal that he has only stated against Nitesh and in turn Nitesh's statement reveals that he called upon the applicant to bring some 'saman' [articles], and therefore, there is no statement showing that the applicant was specifically asked by Prashant to bring Desi Katta. Thus, considering the weak type of evidence and the fact that the applicant has been involved only on the basis of statement of co-accused, he be released on bail.

5. The learned A.P.P. by filing reply opposes the application. According to her the present applicant is part and parcel of the conspiracy which was hatched. She further submits that he

has procured pistol [desi katta] from one Uttam Gedam, therefore, considering the role played by the applicant, he cannot be enlarged on bail.

6. Upon hearing the learned Counsel, admittedly it appears from record that the main accused Prashant Mesham was arrested in March, 2025. He has given disclosure statement that Nitesh was assigned with the work of bringing some saman. It could be gathered that even co-accused Nitesh has also made disclosure statement that the present applicant was assigned the said work. Admittedly the statement of co-accused cannot be acted upon. It is for the investigating agency to come with concrete material, against the applicant apart from disclosure statement, so far as the present case is concerned. Admittedly, initial statement of Prashant was recorded, wherein name of one Nitesh was disclosed and later on after arrest of Nitesh, he disclosed name of present applicant. Therefore, considering this fact it was the duty of the investigating officer to investigate on the same line and ought to have collected the evidence to that effect. However, merely the disclosure statement of co-accused, by itself is not sufficient to connect the applicant with the present crime. Considering this fact, as also the fact that investigation is complete and charge sheet is filed, I am inclined to grant bail to the applicant. Hence, the

following order.

ORDER

- (i) Criminal Application is allowed and disposed of.
- (ii) The applicant /accused Harsh Abhay Gajbhiye be released on regular bail in connection with Crime No.11/2024 registered with Gondia City Police Station, Gondia for the offence punishable under Sections 307, 120-B of the Indian Penal Code and Sections 3 and 25 of the Arms Act, on his furnishing P.R. Bond of Rs.50,000/- with one surety in the like amount.
- (iii) The accused shall not enter within the territorial jurisdiction where the informant is residing, till the completion of the trial.
- (iv) The accused shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case, as also shall not tamper with the evidence.
- (v) The accused shall provide his residential address and cell number to Police Station concerned and shall not change his place of residence without prior intimation to the Investigating Agency.
- (vi) The accused shall attend each and every date of trial regularly. If he fails to attend the trial on one date, or fails to comply with the aforesaid

conditions, his default would entail the State to ask for cancellation of bail.

- (vii) The above observations are prima facie in nature, and restricted for the purpose of deciding this application. The Trial Court shall not get itself influenced by said observations, during the course of trial.
- (viii) Misc. Applications, if any, are also disposed of.

JUDGE