

Order below Bail Application Exh.17 in S.C. No. 84 of 2022
Chopda City Police Station,Taluka Chopda

(1. Akshay Dilip Patil Vs. The State of Maharashtra)

(CNR No.MHJG010007602022)

1. This is successive bail application after filing of charge-sheet submitted by the applicant to release him on bail. There first bail application No. 304/2022, 305/2022, 377/2022 where rejected by this court on the ground that investigating is at initial stage. The present bail application is submitted after filing of the charge-sheet on the ground of change in circumstances. By this application u/s. 439 of Cr.P.C. filed by the applicant Akshay Dilip Patil, Occ – Business, R/o. Ravivar Peth, Karad, Dist-Satara for releasing on regular bail in C.R.No.336/2022 of Chopda City Police Station, Tal. Chopda, Dist. Jalgaon for the offence punishable under Secs. 3/25 and 7/25 r/w. 34 of Arm Act.

2. It is the case of the prosecution that on 07/08/2022 the secrete information was received to Chopada City police station officer that some unknown person are carrying the pistols and other arms without permission. Hence, P.C. Dipak Vasave alongwith PSI Ghanshyam Tambe and other staff near Issar petrol pump on Chopada Shirpur road at about 9.30 p.m. by government vehicle no.MH19-M-0665 they found that the white colour four wheeler vehicle No.MH50-AL-8181 was going to Shirpur the said vehicle was stopped at that time they found four persons in the said vehicle. They told their names as Ganesh @

Sunny Sunil Shinde, Mohsin Hanif Mujavar, Rijwan Rajjak Nadaf, Akshay Dilip Patil. Their searched was made in presence of panchas and vehicle was seized at that time it reveals that two country made pistols found in the pocket of Ganesh Shinde two Gavthi pistol alongwith rifal were found in possession of Rijwan Nadaf and one Gavthi pistol was found alongwtih the waist of Mohsin Hanif Mujawar, Five cartridges, one country made pistol was found from Akshay Patil, Five cartridges were also found. All the persons having valid license. Hence police prepared panchanama. Thereafter H.C. Deepak Vasave lodged report accordingly offence was registered. In the investigation accused were arrested. Remanded in P.C. and thereafter were taken in MCR.

3. The applicant has contended that he has to involved in the false case. He did not commit any offence. If entire allegations is accepted is true then he also it can be said that offence is under Arms Act. No further investigation is required. Particularly when charge-sheet is submitted.

4. The applicant / accused contended that he is innocent. He has involved in the false case. Nothing was seized from him. If the entire contention of the charge sheet is accepted then it will reveals that investigation is completed. The appellant / accused is businessman and is only Brade earning person. He has responsible of his old aged father. There is no any

other person to look the business of the family. The applicant is having root in the society.

5. The main accused is the owner of the vehicle from which the country made pistols are seized. It is the case of the prosecution that the applicant at the instance of main accused Suraj Vishnu Salunkhe was released on anticipatory bail by the Hon'ble High Court in bail application no.1822/2022. The applicant according to the prosecution is the person who at the instance of the applicant of bail application no.1822/2022, Suraj Salunkhe have purchased the pistols. So there role of applicant according to the prosecution he is only to carry the pistols. So rule of parity applies here. Hence, the applicant may be released on bail on the ground of parity.

6. APP Shri R.B.Chaudhari for the State strongly objected to release the accused on bail on the ground that offence is of serious nature. Accused is raid handed the caught in the offence. The country made pistols are seized from him alongwith the live cartridges. If the accused is released on bail it will be encouragement to those persons do the business of selling of country made Pistols. The other submission made in the application are the matter of merit and that has to be decided by the court at the time of trial this court have already framed the charge against the accused. So matter is for evidence. The bail of other co-accused after filing of charge-sheet are also rejected. The rule of parity does not applicable in this case as there is

direct involvement of the applicant in the crime. There is sufficient evidence on record. Hence, application may be rejected.

7. Heard adv P.D.Patil for the applicant and APP Mr. R.B.Chaudhari for the State. Adv. Shri. P.D.Pati submitted that accused is businessman. He is having responsibility of his family. He resides at Karad, Dist- Satara. Hence, no question of tampering the witnesses will arise. At the time of rejecting his first bail application the court have observed that the bail application is rejected only on the ground that the investigation in at initial stage. Now investigation is completed. Hence, application may be allowed and accused may be released on bail. He further submitted that the Hon'ble Supreme Court while deciding the case of Dharmendra Singh Vs. State of Madhya Pradesh in the judgment of 11/06/2021 in Civil Leave Appeal Criminal No.1808/2021 held that when the co-accused released on bail and is having same type of involvement the accused be released on parity ground.

8. APP Shri R.B.Chaudhari for the State submitted that offence is of serious nature. Country made pistols alongwith live cartridges are seized for possession of the accused. Hence, there is sufficient evidence against the accused. The application may be rejected.

9. It is fact that the applicant / accused alongwith other accused were found in possession of Seven fire arms with live cartridges. They were not having license of fire arms. The offence

U/s. 7 of the Arms act. If the accused might have been found to possession of the Single Pistols it can defiantly say that offence of the u/s. 05 of the Arms Act. When Seven Country made pistols and live cartridges found in possession of accused.

10. Possession of 7 Country made Pistols alongwith live cartridges resumes that such Pistols are found in possession of the commercial purpose and accordingly offence U/s. 7 of the arms act be registered. So though the charge-sheet is submitted.

11. In the previous bail application I observed that the profession of accused was shown as business and resides at Karad, Dist- Satara and during submission advocate Shri P.D.Patil submitted that accused is doing goldsmith business at Karad why he came here at Chopada is not explained in the bail application. By no stretch of imagination a person who resides at Karad Dist- Satara will come to Chopada which is a remote place for no reason. In such situation the submission of Adv. Shri P.D.Patil is not satisfactory. The applicant did not explain why the accused came to Chopada which is very remote place in the district. The 7 pistols and live cartridges were seized from the accused when they were traveling by the car. By no stretch of imagination a person who does the business of gold in Karad will found in possession 7 country made pistols alongwith live cartridges.

12. The submission made by advocate Shri P.D. Patil about the merit of case that cannot be considered at this stage. Here I want to brought a judicial note on the record that near the

Chopda city there is village by name Umarti and N number of offences about carrying of country made pistols, cartridges are registered in this area. This area became the hub of selling and purchasing the pistols and live cartridges. The persons of various State have been arrested here at Chopda under the offence of section 7 r/w. 25 of Arms Act. The applicant / accused also found in possession of 7 pistols and live cartridges at the same vicinity. In the entire application why the applicant came from Karad which is at distance from more than 500 k.m. alongwith other accused is not explained by the applicant. The authority cited supra is not applicable in the present case as facts are quite different. In this case the accused who is released on anticipatory case by the Hon'ble High Court was not traveling alongwith the applicant. When they were caught raid handed while carrying the 7 country made pistols and live cartridges. That applicant was in the hotel at the time of arresting this accused while carrying the pistols. So the Hon'ble High Court released that accused on anticipatory bail. So the nature of involvement of the applicant and the accused who has been released on bail are quite different. Hence, rule of parity does not applicable here.

13. Considering all these facts I think it is not case wherein a bail can be granted. Filing of charge-sheet is no changing of circumstances in the successive bail application. Now the matter is posted for evidence as charge is already framed. I think matter can decided within six months.

Considering all these circumstances, I proceed to pass following order.

ORDER

Application is rejected.

Date: 03.01.2023

(P.R.Choudhari)
Additional Sessions Judge,
Amalner