

Order below Exh. 04 in Sessions Case no. 328/2025.

1. Vide present application accused Shaikh Nasir Abdul Nabi @ Pappu Dhagga, seeks release on bail, under section 483 of the Bhartiya Nagarik Suraksha Sanhita, in respect of C.R. no. 185/2025 at Pawarwadi Police station under sections 109, 189(2), 191(2), 191(3), 190, 351(2), 351(3), 352, 118 (1) and 118 (2) of the Bhartiya Nyay Sanhita, 2023 and sections 3/25, 5/25 and 7/25 of the Arms Act.

2. Learned Advocate for the accused submits that the entire FIR itself is not maintainable for the reason that it springs out from hearsay information gathered by the informant through his brother. It is contended that per FIR, informant reached at the spot and found his brother lying at the spot, but any of the accused was not found at the spot. It is contended that therefore complainant had neither seen any accused at the spot, nor has seen any accused assaulting or firing gun bullet on the injured.

3. Further contended that the FIR contains the name of accused Rabbanni and 4 unknown accused, and the name of this applicant accused is not in the FIR, therefore false implication cannot be ruled out. Further submitted that the injured is now discharged from the hospital.

4. Further submitted that this accused is implicated in the offence, subsequently during the course of investigation as an after-thought. False implication is also contended stating that injured could have told the names of these accused to his brother, even on the spot, while he stated the name of co-accused Rabanni.

5. It is stated that this accused has been roped in the offence, through the statement of co-accused Rabbanni. It is argued that statement of a co-accused against another co-accused, would not be admissible at trial, therefore, his implication in the offence is wrong and he has been illegally arrested. Further contended that the allegations against this accused of having supplied fire-arms to co-accused, are false.

6. Further stated that even otherwise also, there are no allegations against this accused of having used any arms or weapons, in the offence, complainant has not stated anything against this accused. There is no recovery or seizure from this accused. Also stated that Test-Identification Parade of this accused is also not done. Also contended that there is no witness statement against this accused.

7. Also contended that even otherwise issue of common object, of this accused alongwith the co-accused shall be a matter for consideration at trial. Also submitted that investigation is completed, Charge-sheet is filed, this accused is having no criminal antecedents. Thus, release on bail is contended.

8. Bail application is resisted by filing police say at Exh. 06 and the Ld. APP submitting that this accused supplied fire-arms to the co-accused Rabanni and the said gun was used for firing gun-shot at the injured, in this occurrence. It is contended that this accused knew about co-accused Rabbanni to be a dreadful offender, but a gun is supplied to him; therefore, the role of this accused is significant in the occurrence. FIR alleges sharing of common intention and also common object.

9. Ld. APP further submits that co-accused Rabbanni has shot fire-arms at the victim, in an attempt to commit his murder, rendering him seriously and grievously injured. Also submitted that co-accused even assaulted injured Anees on his head, hands and legs by means of iron pipe.

10. Further submitted that even if Charge-sheet is filed, further investigation is yet continuing, as two accused are absconding and are yet to be traced and arrested. Further submitted that in case this accused is released on bail then repetition of similar or more serious offence, pressurizing the informant and influencing the witnesses, cannot be ruled out. Accordingly, bail is resisted.

11. Upon perusing the bail application, the objection filed, copy of FIR, the charge-sheet and hearing the Ld. Advocate for the accused and the Ld. APP, it appears that the FIR is registered by the injured's brother, based upon the information shared to him by the injured. Indeed, FIR does not reveal of this informant to be the eye-witness to the occurrence or of having seen any accused at the spot.

12. Allegations of firing gun-shots are against co-accused Rabbanni and not this accused. These two accused Rabbanni and Shaikh Shabbir, are arrested. Two country-made fire-arms are recovered. Charge-sheet reveals the role of this accused having transpired during the course of investigation about having supplied a gun to main co-accused Rabbanni. It has also transpired that this accused sold another country-made gun to co-accused Shaikh Shabbir, for Rs. 20,000/-. It appears that thereafter only section 7/25 of the Arms Act, has been invoked in this occurrence.

13. Complainant has been shot on his chest by co-accused

Rabanni, by the country-made gun, supplied to him, by present applicant-accused. Investigation has also yielded that this applicant-accused has sold a country-made gun to the co-accused Shaikh Shabbir, for Rs. 20,000/-. Thus, it appears that this applicant-accused is operating as an illegal gun supplier. It would be further pertinent that a gun supplied by him, is used to strike a fatal assault on informant's brother. No doubt, informant's brother been assaulted by a gun-shot on his chest, but is saved.

14. In such circumstances, it cannot be considered that this accused had a meager role in the offence; rather this accused had provided logistic support and even of illegally providing fire-arms to the prime accused Rabbani and to the co-accused Shaikh Shabbir. In such circumstances, the defence raised about this accused not being present at the spot or not been named in the FIR, would not be of much assistance to this accused, atleast at this stage. It is more so because investigation material on record, even reveals on this accused involved in illegal selling of fire-arms. Therefore, this accused having prominent role, the apprehensions raised cannot be ruled out. Hence, the following order.

ORDER

Bail application is stands rejected.

(Y. H. Ameta)

Additional Sessions Judge,
Malegaon.

Date : 26.11.2025