
(2021) 07 BOM CK 0028

Bombay High Court

Case No: Criminal Bail Application No. 2093 Of 2021

Govindsing Balusing
Rajput (Yadav) And
Others

APPELLANT

Vs

State Of Maharashtra

RESPONDENT

Date of Decision: July 2, 2021

Acts Referred:

- Indian Penal Code, 1860 - Section 34, 286
- Explosive Substances Act, 1908 - Section 4, 5
- Explosives Act, 1884 - Section 9B(1)(b)

Hon'ble Judges: Sarang V. Kotwal, J

Bench: Single Bench

Advocate: M. K. Kocharekar, S. H. Yadav

Final Decision: Disposed Of

Judgement

Sarang V. Kotwal, J

1. The applicants are seeking their release on bail in connection with C.R.No.247 of 2021 registered at Umbraj, Tal. Karad, Dist. Satara police station,

under sections 286 r/w. 34 of the Indian Penal Code (for short 'IPC'), under sections 4 and 5 of the Explosive Substances Act, 1908 and under section

9-B(1)(b) of The Explosives Act, 1884. The applicants were arrested on 13/05/2021 and since then they are in custody. Though the Gokhale.odt

charge-sheet is not filed, the investigation has progressed substantially and I have perused the investigation papers produced before me today. I have

also perused the police report filed by the investigating agency, opposing this application.

2. Heard Shri. Kocharekar, learned counsel for the applicants and Shri. Yadav, learned APP for the State.

3. The First Information Report (for short 'F.I.R.') is lodged by Police Naik Sagar Bhosale, attached to Anti Terrorist Squad, Satara. He has

mentioned in the F.I.R. that, while he along with others were on patrolling duty, they received an information that the applicant No.1 had stored

explosives in his house. The police arranged to conduct a raid. Panchas were called. The raiding party went to applicant No.1's house. They carried

out the search. They found that, four boxes were kept in a toilet block. The boxes were opened. There were gelatin sticks in those boxes. Few gelatin

sticks were found in a Bolero vehicle which was parked nearby. In all, 836 gelatin sticks and 27 detonators were found. They were seized. The

applicant No.1 was arrested. On this basis the F.I.R. was lodged.

During the investigation it transpired that the explosives were supplied by the applicant No.2. Therefore, he was also arrested on the same day.

4. Learned counsel for the applicants submitted that, Section 286 of the IPC and Section 9-B(1)(b) of the Explosives Act, 1884 are bailable in nature.

The serious offences alleged are in respect of Sections 4 and 5 of the Explosive Substances Act, 1908. He submitted that, under both these sections

the main ingredient is about 'intent' of the accused for having these explosive substances in his possession. Section 5 of the Explosive Substances Act,

1908 is about the object of possession. Shri. Kocharekar submitted that the applicant No.1 had requisite license for conducting blasting operations for

digging wells and canals. The applicant No.2 had requisite license for supplying these substances. Therefore, none of the sections alleged against them

are applicable. He relied on the license issued to both these applicants. The applicant No.1 was granted license for carrying out blasting of explosives.

The license was valid up to 19/01/2026. A copy of the same is annexed at Exh. 'D' of this application. The applicant No.2 was granted licenses to

possess and transport the explosives. The license to possess was valid up to 31/03/2025. Copies of these licenses are annexed at Exh. 'E' and 'F' of

this application. Shri. Kocharekar submitted that, requisite entries in the register were taken. E-Way bill and pass for transporting these particular

explosives were obtained by the applicant No.2. The applicant No.1 had work orders from the people in whose area blasting operations were to be

carried out. He submitted that the applicants are already in custody since 13/05/2021, therefore, they deserve to be released on bail.

5. Learned APP opposed this application and relied on the police report in that behalf. A copy of that report is taken on record and marked 'X' for

identification.

6. I have considered these submissions. As mentioned earlier, both these applicants had requisite licenses. The investigation papers, as well as,

annexures to this application show that, people like Balasaheb Mahadik, Sandeep Chavan and Omkar Mahadik had given work order to the applicant

No.1 for carrying out blasting operations. The police report itself categorically states that the investigation has not revealed that the accused were

connected with any terrorist activities. They were concerned with the digging operation for constructing Wells, Canals and Dams. The e-way bill

submitted by the accused were found to be genuine documents. The work orders are also genuine. The applicant No.2 has taken requisite entries in

his registers. He also has license to possess these explosives in his godown. Thus, most of the aspects in this matter are in order. The applicants do

not appear to be criminals. The only serious concern is about storage of these explosives in a residential locality. This issue ofcourse cannot be easily

neglected. But for that purpose the authorities are taking action in respect of their licenses. As per the police report itself the applicants do not appear

to be criminals. Whether aforesaid mentioned sections are attracted or not is a matter of trial. Intention of accused can be decided after trial. At this

stage, considering the police report, even the requisite criminal intent is not made out from the investigation. Though, applicant No.1 has carelessly

stored the explosives in his toilet block, fortunately, no untoward incident has occurred. Under these circumstances, I am taking a lenient view, mainly

on the ground that the applicants are not shown to be criminals and the explosives were procured for the lawful purposes, though, they were not stored

in accordance with law. The applicants are in custody since 13/05/2021. The investigation is substantially conducted, though, charge-sheet is not filed.

However, the prosecution case is sufficiently reflected in the investigation carried out so far. Shri. Kocharekar, has made a categorical statement that

the applicants are willing to furnish local solvent sureties. Therefore, their possible unavailability can also be taken care of by imposing suitable

conditions. In this view of the matter, applicants can be released on bail.

7. Hence, the following order :

ORDER

(i) In connection with C.R.No.247 of 2021 registered at Umbraj, Tal. Karad, Dist. Satara, the applicants are directed to be released on bail on their

furnishing P. R. bonds in the sum of Rs.30,000/- each (Rupees Thirty Thousand each Only) with one or two local solvent sureties each from the

jurisdiction of Umbraj's police station, in the like amount.

Ã, (ii) The Applicants shall attend the concerned Police Station once in a week till filing of the charge- sheet and thereafter, once in a month for a

period of one year from today.

(iii) Neither of the applicants shall store explosives illegally, henceforth.

(iv) Application stands disposed of accordingly.