IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO. 2070 OF 2026

VIKAS KAMAL YADAV
Versus
THE STATE OF MAHARASHTRA

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Mr. Parmeshwar Ashok Shendge, Advocate for Applicant
Mr. D. J. Patil, APP for Respondent - State

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CORAM : HITEN S. VENEGAVKAR, J.

DATED : 3rd NOVEMBER, 2026

ORDER :

1. The applicant seeks regular bail under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023, in connection with Crime No. 431 of 2026 registered with Bhingar Camp Police Station, District Ahilyanagar, for offences under Sections 3 and 7 read with Section 25 of the Arms Act, 1959. He was arrested on 13th August, 2026. His application for bail was rejected by the Additional Sessions Judge, Ahmednagar, on 23rd September, 2026 in Criminal Bail Application No.1509 of 2026. The charge sheet has since been filed.

2. The prosecution states that, on the night of 12th August, 2026, the Local Crime Branch received information that the applicant was near Bhingar Nala with a country-made pistol which

he intended to sell. A police party accompanied by panch witnesses proceeded to the spot. The applicant and co-accused Omkar Anil Shinde allegedly attempted to run away on noticing the police and were apprehended. A country-made pistol valued at Rs.50,000/-, two live cartridges and an Android mobile telephone were allegedly recovered from the applicant. A separate steel magazine containing two live cartridges and an iPhone were recovered from the co-accused. Thus, the seizure described in the FIR comprises one pistol, four live cartridges, a separate magazine and two mobile telephones. The FIR was registered after midnight on 13th August, 2026. The remand papers refer to the applicant having brought the weapon from Bihar and to the need to ascertain its source, the purpose of its purchase by the co-accused and the involvement of others.

3. As reflected in the application and the earlier order, learned Advocate for the applicant submits that the applicant has been falsely implicated and disputes the arrest and seizure. He refers to the alleged delay in registration of the FIR and submits that the weapon was neither fired nor used to cause injury. He further submits that a country-made pistol does not, merely by that description, fall within the definition of prohibited arms. Reliance is placed on ***Sunderlal Tuhiram Parashar v. The National***

Investigation Agency and another, Criminal Appeal No. 380 of 2020, decided by a Division Bench of this Court on 29th September, 2021. It is also submitted that recovery is complete, the applicant has no criminal antecedents, and his further detention is unnecessary. The applicant is aged about 23 years, is married and states that his wife depends upon him. He offers to furnish surety, attend the proceedings and abide by conditions protecting the prosecution evidence.

4. The opposition of the State, as reflected in the investigating officer's written say and the earlier order, is that the applicant was found in actual possession of an unlicensed pistol and ammunition intended for illegal sale. The prosecution relies upon the seizure in the presence of panch witnesses and the statements recorded during investigation. It apprehends that the applicant may return to Bihar, evade the proceedings, bring further arms for sale or interfere with witnesses. The earlier opposition also referred to the investigation concerning the source of the weapon and the need to obtain the forensic report.

5. I have considered the application, the FIR, the remand papers, the written opposition and the earlier order. The alleged recovery directly connects the applicant with the offence under

investigation. His plea of false implication cannot be accepted as an established fact at this stage. Equally, the prosecution need not establish that the weapon was actually fired before an accusation of unlawful possession can be considered. The absence of firing or injury is relevant to the circumstances of this occurrence, but does not render unlawful possession innocuous. These aspects must be kept in view while deciding whether further detention pending trial is necessary.

6. The submission concerning delay does not, on the available record, materially weaken the prosecution case for the present purpose. The occurrence is shown as having taken place late on 12th August, 2026 and the FIR was registered shortly after midnight on 13th August, 2026. No conclusion discrediting the seizure can be drawn merely because registration took place on the following calendar date. The truth of the seizure and the evidence of the police officers and panch witnesses will have to be tested at trial.

7. The applicability of Section 7 nevertheless requires separate consideration. In the earlier order, the country-made pistol was treated as a prohibited arm because it was a dangerous weapon. That reasoning does not sufficiently address Section 2(l)

(i). The statutory definition concerns, amongst other specified categories, firearms designed or adapted for continuous discharge while pressure on the trigger is maintained, and arms specified by Central Government notification. The description of a weapon as dangerous or unlicensed does not by itself satisfy that definition. Nor do ordinary live cartridges become prohibited ammunition merely because their possession is unlawful. The description in the papers presently available does not establish the particular characteristics or notification necessary to sustain that classification. This is a prima facie assessment and leaves the effect of any technical evidence open for trial.

8. The distinction is supported by ***Sunderlal Tuhiram Parashar*** (supra), particularly paragraphs 10 to 14. The Division Bench examined the statutory definitions before considering the invocation of Section 7 in relation to a country-made pistol. Its reasoning on that distinction is relevant here. The custody period and the punishment considered in that case arose from its own facts and cannot simply be applied to the present occurrence of 2026.

9. The applicant's submission that unlawful possession attracts a maximum sentence of five years also needs qualification.

Section 25(1B)(a), as amended, provides imprisonment from two to five years and fine for possession in contravention of Section 3. However, the prosecution here also alleges possession for sale. Contravention of Section 5 attracts a distinct and substantially more severe punishment under Section 25(1). It would therefore be incorrect to decide this application by treating five years as the ceiling for every allegation concerning this weapon. The allegation of intended sale has been considered in assessing gravity. The precise offences established by the evidence remain for the trial Court to determine.

10. The earlier refusal of bail by sessions court was substantially influenced by the investigation then remaining incomplete, the proposed inquiry into the source of the weapon and the awaited forensic report. The charge sheet has now been filed. That development does not confer an automatic right to bail, but requires a fresh assessment of the need for detention. The weapon, ammunition and mobile telephones have already been seized. The remand papers record that the seizure panchnama was prepared and witness statements were recorded. The applicant was in police custody until 18th August, 2026 and has thereafter remained in judicial custody. The earlier reasons for retaining him during investigation cannot, without more, justify his continued detention

after filing of the charge sheet. Any lawful further investigation can continue with a condition requiring his cooperation.

11. The applicant specifically asserts that he has no criminal antecedents. No earlier offence is identified in the written opposition or in the antecedents portion of the Sessions Court's order. The concern that he may again bring weapons from Bihar must be weighed against that position and the circumstances of this seizure. His alleged attempt to run away at the spot and his residence outside Maharashtra require safeguards to secure his attendance. They do not, in the circumstances, make detention the only means of doing so. Verified residential particulars, reporting for a limited period and regular attendance before the trial Court can address that concern. The seized articles are already in police custody, and a prohibition against approaching or influencing witnesses will protect the remaining evidence.

12. In ***Zeba Khan v. State of U.P. and others***, ***2026,*** AIR 2006 SC 1006, decided on 11th February, 2026, the Supreme Court emphasised the importance of material facts, criminal history and a reasoned exercise of discretion in bail matters. The present assessment takes into consideration the direct recovery, the allegation of sale, the earlier rejection, the absence of any identified

antecedent and the subsequent filing of the charge sheet. The applicant's age and family circumstances provide additional context, but are not by themselves the basis for release. Considering these circumstances together, I am satisfied that his presence and the interests of the prosecution can be secured by appropriate conditions. The application therefore deserves to be allowed. Hence, the following order :

ORDER

a) Bail Application No. 2070 of 2026 is allowed.

b) The applicant, Vikas Kamal Yadav, shall be released on bail in Crime No. 431 of 2026 registered with Bhingar Camp Police Station, District Ahilyanagar, on executing a personal bond of Rs.30,000/- with one or two local sureties in the like amount, to the satisfaction of the jurisdictional Court, unless applicant is required in any other case.

c) Before his release, the applicant shall furnish to the jurisdictional Court and the investigating officer his complete present and permanent residential addresses, and available contact number and proof of identity. He shall intimate any change in those particulars in writing within seven days.

d) He shall attend Bhingar Camp Police Station on the first Monday of every month between 10.00 a.m. and 12.00

noon for three months from his release, and thereafter whenever required for any lawful further investigation upon reasonable written notice.

e) He shall attend the trial Court on every date unless exempted by that Court.

f) He shall not directly or indirectly threaten, induce or contact any prosecution witness for the purpose of influencing the evidence, tamper with the prosecution material or commit an offence similar to the present one.

g) He shall not leave State of Maharashtra without prior permission of the trial Court.

h) A breach of any of these conditions will entitle the prosecution to seek cancellation of bail in accordance with law.

i) The observations made above are confined to the decision of this application. The trial Court shall decide the case on the evidence led before it, uninfluenced by these observations.

(HITEN S. VENEGAVKAR)
JUDGE

Tandale