



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

16 BAIL APPLICATION NO. 1149 OF 2025

**RANJEET GULAB BIRAJDAR
VERSUS
THE STATE OF MAHARASHTRA**

...
Advocate for Applicant : Mr. Girish K. Naik Thigle
APP for Respondent/State: Mr. S. K. Shirse
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CORAM : ARUN R. PEDNEKER, J.

DATE : 14.07.2025

P.C. :

1] Heard learned counsel for the applicant and the learned APP for the respondent-State.

2] The applicant is seeking bail as he was arrested on 10.04.2024 in connection with Crime No.0150/2024, dated 09.04.2024, registered with Killari Police Station, Taluka Killari, District Latur, for the offences punishable under Sections 302, 307, 336, 323, 504, 506 read with 34 of the Indian Penal Code, 1860.

3] The learned counsel for the applicant had made submissions, which are noted by this court vide order dated 11.07.2025 and for the purpose of ready reference the relevant portion of the order is mentioned hereinafter.

4a] In the FIR it is stated that applicant – Ranjit

Birajdar and other accused have assaulted Dashrath Kave and Swapnil with fist and kick blows and has committed murder of Swapnil. It is stated in the FIR that on 8.4.2024 at about 4.00 p.m. the above incident occurred on account of parking of the vehicle. Thereafter another assault was made wherein the applicant and the co-accused have caught hold Dashrath and started beating him with kick and fist blows. It is stated that during the incident Swapni tried to intervene in the incident and at that time, main accused Nivrutti Birajdar has assaulted Swapnil on his head and due to that Swapnil succumbed to head injury. While assaulting Dashrath and Swapnil, the accused also threatened that they will kill the deceased and others.

4b] The learned counsel for the applicant has taken me through the statement of witness namely Vishal Kave, who is said to be eye witness of the assault made on the deceased. In his statement, Vishal Kave has stated that on 8.4.2024 at around 5.00 p.m. first fight was occurred on account of parking dispute. He has seen only first part of the incident.

4c] The learned counsel for the applicant has also taken me through the statement of injured witness Dashrath Kave, wherein he has stated that there was dispute going on with regard to parking of the car. At that time, present applicant and other accused Shubham Gavane and Nivrutti

Birajdar abused Dashrath and beat him with their fist. At that time when Swapnil came to resolve the dispute, accused pushed Swapnil and the applicant caught Swapnil and Nivrutti Birajdar hit the stone on the head of Swapnil.

4d] The learned counsel for the applicant submits that the injured eye witness has narrated the incident wherein it is only stated that applicant has caught hold hands of Swapnil and other co-accused Nivrutti has assaulted the deceased Swapnil by means of stone on his head. The learned counsel submits that original fight was not between Swapnil and the accused, but it was between accused and injured eye witness Dashrath. The learned counsel for the applicant submits that the deceased was trying to resolve the dispute and during the incident the co-accused has not assaulted Swapnil and caused his death. The learned counsel submits considering the role of the present applicant in the crime, at the highest, even if the case of the prosecution is taken as it is, the offence would not travel beyond section 304 part II of I.P.C. and it cannot be said that applicant had any intention to kill the deceased. The learned counsel for the applicant submits that earlier bail applications of the applicant are rejected by the trial Court and by this Court. The learned counsel also submits that the Hon'ble Supreme Court vide order dated 7.2.2025 in Petition (s) for Special Leave to Appeal (Cri) No. 17403/2024 has also dismissed the prayed of the applicant

for regular bail, however, the Hon'ble Supreme Court has granted liberty to the applicant to file fresh bail application after a period of three months, therefore, the present bail application has been filed. The learned counsel for the applicant submits that there are no antecedents against the applicant and he is a young boy. Considering all these, the learned counsel prays to release the applicant on bail.

5] The learned APP today contested the submissions made by the learned counsel for the applicant, on 11.07.2025. He submits that from the statements of the eye witness Dashrath and Tanaji it is crystal clear that in the first incident in front of Hotel Shravani all accused assaulted Dashrath and Swapnil on account of dispute over car parking. Thereafter, in second incident they pelted stones and again they assaulted Dashrath and at that time Swapnil intervened. Thereafter, the present applicant and one co-accused caught hold of Swapnil and the co-accused namely Nivrutti assaulted Swapnil over the head by means of stone.

The learned APP submits that only first incident of assault it can be said to be an uncalculated one and, thereafter, the second incident is calculated one as in that they had called the injured witness Dashrath to come on the ground and there the assault had taken place.

He further submits that the applicant and the co-accused caught hold Swapnil and, Nivrutti hit on the head with the stone and caused such bodily injuries

sufficient to cause death in the ordinary course. Therefore, the learned APP submits that the second incident would amount to intention to kill the deceased and the applicants were having intention to kill the deceased Swapnil.

6] The learned APP has relied upon the Judgment of the Hon'ble Supreme Court in the case of **Pulicherla Nagaraju @ Nagaraja Reddy Vs. State of AP, (2006) 11 SCC 444**, more particularly, paragraph no.29, as noted below:

“29. Therefore, the court should proceed to decide the pivota, with care and caution, as that will decide whether the case falls under Section 302 or 304 Part I or 304 Part II. Many petty or insignificant matters - plucking of a fruit, straying of a cattle, quarrel of children, utterance of a rude word or even an objectionable glance, may lead to altercations and group clashes culminating in deaths. Usual motives like revenge, greed, jealousy or suspicion may be totally absent in such cases. There may be no intention. There may be no pre-meditation. In fact, there may not even be criminality. At the other end of the spectrum, there may be cases of murder where the accused attempts to avoid the penalty for murder by attempting to put forth a case that there was no intention to cause death. It is for the courts to ensure that the cases of murder punishable under Section 302, are not converted into offences punishable under Section 304 Part I/II, or cases of culpable homicide not amounting to murder, are treated as murder punishable under Section 302. The intention to cause death can be gathered generally from a combination of a few or several of the following, among other, circumstances : (i) nature of the weapon used; (ii) whether the weapon was carried by the accused or was picked up from the spot; (iii) whether the blow is aimed at a vital part of the body; (iv) the amount of force employed in causing injury; (v) whether the act was in the course of sudden quarrel or sudden fight or free for all fight; (vi) whether the incident occurs

by chance or whether there was any pre- meditation; (vii) whether there was any prior enmity or whether the deceased was a stranger; (viii) whether there was any grave and sudden provocation, and if so, the cause for such provocation; (ix) whether it was in the heat of passion; (x) whether the person inflicting the injury has taken undue advantage or has acted in a cruel and unusual manner; (xi) whether the accused dealt a single blow or several blows. The above list of circumstances is, of course, not exhaustive and there may be several other special circumstances with reference to individual cases which may throw light on the question of intention. Be that as it may.”

7] The learned APP further submits that the above Judgment **Pulicherla Nagaraju @ Nagaraja Reddy Vs. State of AP** (*supra*), the Hon'ble Apex Court has laid down the general parameters that what would constitute the offence under Section 304 Part I / II and under Section 302 of IPC.

The learned APP submits that when the second incident had taken place, it was a pre-meditated incident and that 12 injuries were inflicted on the deceased. In view of the above and, also, applying the aforesaid parameters in the above cited Judgment, there are in all 11 circumstances pointed out wherefrom the intention to cause death can be gathered.

8] Considering the rival submissions, in the instant case, there is sequence of events immediately one after the other. There was a fight on account of parking in that fight there was an assault. Immediately thereafter second assault has taken place. The first and the second incident is one

after the another. In the second incident the co-accused has used the stone lying on the ground and has assaulted the deceased 12 times on different parts of the body including the head. The Postmortem Report, Points No.17 and 19, indicate as under:

17.	Surface wounds and injuries- Their nature position, dimensions (measured) and directions to be accurately stated- their probable age and causes to be noted. If bruises be present what is the condition of the subcutaneous tissues ? N.B. (When injuries are numerous and cannot be mentioned within the space available, they should be mentioned on a separate paper which should be signed).	1. Saturated wound present behind left ear of length 3cm with 3 stitches in situ, margins irregular and infiltrated with blood. No discharge from wound. 2. Contusion present over left ear helix of size 2.5 X 0.5 cm, dark reddish black. 3. Abrasion present over left side of forehead of size 3 X 0.2 cm, brownish. 4. Abrasion present over left side of chin of size 2 X 1 cm, brownish. 5. Multiple, irregular abrasions present over right lower chest posteriorly or size varying from 0.2 X 0.2 cm to 5 X 1 cm, brownish. 6. Multiple, irregular, sub-centimeter sized abrasions present over right arm lower part laterally, brownish. 7. Abrasion present over right knee anterior surface of size 0.5 X 0.3 cm brownish. 8. Abrasion present over right great toe anterior surface of size 0.2 X 0.2 cm brownish. 9. Abrasion present over left foot medial surface of size 1 X 0.5 cm, brownish. 10. Puncture mark present over right cubital fossa. (Suggestive of intra-venous access) 11. Puncture mark present over right forearm middle third anterior surface. (suggestive of intra-venous access) 12. Puncture mark present over left hand dorsum. (suggestive of intra-venous access)
III	Internal Examination	
19.	Head -	
i)	Injuries under the scalp, their nature.	Diffuse hematoma present over right fronto-temporo parietal region and left parieto-temporal region.
ii)	Skull – Vault and base – Describe fractures, their sites, dimensions, directions, etc.	Linear, irregular, un-displaced, full thickness fracture of left petrous temporal bone seen of length 3.5 cm, margins infiltrated with blood.
iii)	Brain – The appearance of	Meninges – Diffuse Subdural hemorrhage

its coverings, size, weight and general condition of the organ itself and any found in its examination to be carefully noted (weight M-1300 grams F-1275 grams)	present over left cerebral hemisphere, diffuse subarachnoid hemorrhage present all over brain surface, more on left side. Brain – Edematous and congested, multiple contusions of size varying from 0.1 X 0.1 cm to 0.3 X 0.2 cm seen within parenchyma of left cerebral hemisphere.
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and opinion as to cause of death is given as “Head Injury.”

9] It is stated that the applicant was holding the hands of the victim. The stone was taken from the ground and was hit to the deceased. The co-accused namely Nivrutti is the person, who hit the stone, while the applicant has hold the hands of the deceased.

10] In the case of **Pulicherla Nagaraju @ Nagaraja Reddy Vs. State of AP** (*supra*), the person appellant was carrying a dangerous weapon. There was previous enmity between the appellant and the victim and there was injury on the vital part of the body with the use of dangerous weapon and that bodily injuries inflicted were sufficient to cause death. Thus, offence of 302 IPC was made out.

11] In the instant case, there is no use of dangerous weapon. The incident had started on account of a parking incident. There were 2 consecutive incidents one after another and in the second incident stone lying on the ground was used by the co-accused against the deceased. The applicant had held the hands of the deceased.

12] Considering the above conspectus, it would be doubtful, whether the offence would fall within Section 302 of IPC. The same would be decided at the stage of the trial. The applicant is in jail for the period of about 15 months. The applicant had also been granted liberty by the Hon'ble Supreme Court to revive the bail application after 3 months. As of today, since the applicant has arguable case on merit, the applicant, on stringent conditions can be granted bail.

13] In view of the above, the application is allowed in the following terms :

a] The applicant shall be released on bail in connection with Crime No.0150/2024, dated 09.04.2024, registered with Killari Police Station, Taluka Killari, District Latur, for the offences punishable under Sections 302, 307, 336, 323, 504, 506 read with 34 of the Indian Penal Code, 1860, on furnishing PR bond of Rs.20,000/- with one or two sureties in the like amount to the satisfaction of the trial Court.

b] The applicant, upon being released on bail, shall not contact the informant, in any manner whatsoever, during the pendency of the trial.

c] The applicant shall co-operate with the trial

Court and he shall attend each and every date, unless exempted by the trial Court.

d] The applicant shall not tamper with the evidence of the prosecution and he shall not influence the informant, witnesses and other persons concerned with the case.

e] The applicant, upon being released on bail, shall place on record of the trial Court the details of his Contact Number and residential address with updates in case of any change.

14] Needless to say, in case of violation of any of the aforesaid conditions, the bail granted to the applicant shall be liable to be cancelled.

15] It is also clarified that the observations made in this order are limited to the disposal of the present bail application. The concerned Court shall proceed further in the matter without being influenced by the observations made hereinabove.

16] The application stands disposed of.

[ARUN R. PEDNEKER]
JUDGE