



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGZEB

970 BAIL APPLICATION NO. 1485 OF 2026

Manju Katraj Alias Kantaraj Pawar

VERSUS

The State Of Maharashtra

...

Mr. Shaikh Nasimoddin Rafiyoddin, Advocate for the Applicant

Mr. S. D. Ghayal, Addl. PP for the Respondent-State

CAROM : HITEN S. VENEGAVKAR, J.

Dated : 2nd September, 2026

PER COURT :-

1. Heard the learned Advocate for the applicant and the learned APP for the State. With their assistance, I have also perused the entire charge-sheet that has been placed on record.
2. The present is the application seeking regular bail in connection with Crime No.131/2024 dated 27.04.2024 registered with Waluj Police Station, Taluka Gangapur and District Aurangabad for offences punishable under Sections 302, 397, 460 of the Indian Penal Code. The applicant came to be arrested in connection with the aforesaid offence on 29.09.2025.
3. The prosecution case, in brief, is that, during the night intervening 26.04.2024, the incident occurred at the house of the informant. The material forming part of the first information report shows that after the members of the family had retired for the night,

somebody knocked the door at the midnight. The prosecution alleges that the incident thereafter culminated in a nocturnal house breaking/ robbery, in the course of which, the victim was brutally assaulted and the informant sustained injuries. There were three accused persons. According to the prosecution, one of them was namely Ramesh Kale (Since expired during the pendency of the proceeding). The informant herself is an eye witness. The prosecution has also recorded the statement of several witnesses who have reiterated and corroborated the version stated by the present complainant.

4. The learned Advocate for the applicant submitted that even according to the informant, the actual assault upon the deceased and upon the informant are specifically attributed to the co-accused Ramesh Kale and no particular assault or other overt-act is attributed to the present applicant. It was submitted that, the case against the applicant rests substantially upon identification and recovery. The applicant was arrested on 29.09.2025, whereas the Test Identification Parade was conducted on 24.04.2026.

5. The learned Advocate for the applicant argues that belated Test Identification Parade will not be an evidence which should be considered. To substantiate his argument, he relies upon the judgment of this Court passed in the case of **Atul Babulal Gajamal Vs. State of Maharashtra** reported in **AIR online, 2021 Bombay 6263**. He also

relies upon the judgment of the Hon'ble Apex Court in Criminal Appeal No. 1008-1009 of 2007 in the case of **Ankush Maruti Shinde and others Vs. State of Maharashtra** along-with several other matters. Thus, according to the learned Advocate, the identification, which was conducted almost two years after the occurrence and about seven months after the arrest of the applicant, seriously diminishing its evidentiary value. The learned counsel further submits that the alleged recovery was effected on 01.10.2025 i.e. after more than one year of the occurrence. The weapons such as axe and knife are stated to have been recovered at the instance of the applicant, however no blood stains were reported on the said weapon. It was, therefore, urged that the recovery does not materially connect the present applicant with the alleged offence of murder. The applicant is about 23 years of age and has already undergone approximately 11 months of incarceration and the investigation has been completed; his detention is unnecessary. The learned counsel, thus, prays for grant of bail on all the above grounds.

6. The learned APP opposed the application. It was submitted that the absence of a separate overt-act of assault cannot be considered in isolation when the prosecution case is of conjoint participation of the accused in a grave occurrence involving house breaking, robbery and murder. The informant, who sustained injuries in the occurrence, has identified the applicant. He argues that the nicety and veracity of the

Test Identification Parade along-with the delay in conducting the Test Identification Parade will be a matter of trial. The material collected by the prosecution at the stage of bail cannot be discarded merely because the Test Identification Parade has been conducted belatedly. The learned APP further argues that the other material collected during the investigation including the statements of witnesses, mainly of the witness Ganesh Nikam lend support to the prosecution version. It was further pointed out that the weapon has been recovered pursuant to the information furnished by the applicant after his arrest. The delay attributed for carrying out the recovery weapons is not correct for the reason that the weapons were hidden by the present applicant and the present applicant himself came to be arrested on 29.09.2025 and the recovery Panchanama is dated 01.10.2025. He further argued that the applicant has criminal antecedents. The applicant being habitual criminal, if released, may again make himself unavailable to the process of law and considering the material and the nature of the offence, it is submitted that the application be rejected.

7. I have given thoughtful consideration to the rival submissions and the material referred to during the hearing. At the stage of considering the application for bail, the court is neither expected to conduct a meticulous appreciation of evidence nor to pronounce upon its ultimate admissibility or reliability. At the same time, particularly

when the accusation concerns offence carrying severe punishment, the court must examine whether the prosecution material, taken at its face value, furnishes a reasonable and prima facie link between the applicant and the occurrence. In addition to this, the nature and gravity of the accusation, the circumstances in which the offences alleged to have been committed, antecedents of the applicant, his conduct during the investigation and the possibility of his remaining unavailable for trial are also relevant consideration.

8. The principal submission on behalf of the applicant is that specific assaults are attributed to the co-accused, Ramesh Kale, and not to the applicant. However, at this stage, it would not be appropriate to isolate the act of inflicting the fatal injury from the remaining prosecution case. The accusation against the applicant is not one of his fortuitous presence at the spot. Prima facie, the prosecution seeks to place him as one of the participants in an incident involving nocturnal intrusion, robbery and homicidal violence. Whether ultimately the prosecution succeeds in establishing the requisite participation of the applicant and the ingredients of each of the offences charged is a matter for trial. For the limited purpose of bail, the material cannot be discarded merely because the fatal assault is specifically attributed to another accused.

9. The injured informant has identified the applicant in the Test

Identification Parade. This is undoubtedly conducted after a considerable lapse of time between the occurrence and the holding of Test Identification Parade. The incident was occurred on 26.04.2024 whereas the parade was held on 24.04.2026. However, an equally material circumstance is that the applicant himself was arrested only on 29.09.2025. The parade was, thus, held after seven months of his arrest. The delay is a circumstance which the trial court will necessarily evaluate while assessing the evidentiary worth of the identification. The Test Identification Parade is essentially corroborates and constitutes substantive piece of evidence. Nevertheless, at the stage of bail, the identification cannot simply be effaced from consideration particularly when it forms part of other material which the prosecution proposes to establish at the trial. Whether the lapse of time has impaired the reliability of the identification is a matter which ought not to be finally adjudicated in this proceeding. Presently, this Court takes the Test Identification Parade as a material piece of evidence which is sufficiently corroborated with the fact of recovery of the weapons that has been used in commissioning of the alleged offence. The facts in the reliance placed by the learned Advocate for the applicant on the authorities mentioned above are completely different and not applicable to the present application.

10. The prosecution further relies upon the recovery of axe and

knife at the instance of the present applicant on 25.10.2025, shortly after his arrest. The defence is justified in pointing out that recovery was effected long after the occurrence and that no blood stains are stated to have been detected upon the weapon. This circumstances may have bearing upon the evidential weight eventually to be attached to the recovery. Nevertheless, at this stage, the recovery pursuant to the information attributed to the applicant constitutes as an additional circumstance, which has to be considered together with, and not *de hors*, the other material on record, within the permissible scope of consideration at the bail stage. The evidentiary value of such recovery, is a matter to be determined at the trial.

11. There is another circumstance which assumes significance. The offence was registered on 26.04.2024, whereas the applicant was arrested only on 29.08.2025. The material placed before the court indicates that the he was brought in connection with the present crime after he apprehended in another case. Whatever explanation may ultimately be offered for his whereabouts during the intervening period, the facts remains that for a considerable length of time, after registration of this serious offence, he was not available to the investigating agency. This circumstance cannot be regarded as insignificant while assessing the likelihood of the applicant remaining unavailable for the trial if enlarged on bail.

12. Even the record disclose that the applicant has criminal antecedents against him. Pendency of another criminal case can never by itself justify indefinite detention nor can antecedents be treated as a proof of guilt. However, the antecedents are legitimate considerations while exercising discretion in a bail application, particularly when they are considered along-with the nature of the accusations and the applicants previous non availability to the Investigating Agency. In the case of **Zeba Khan v. State of U.P (Criminal Appeal No. 825 of 2026, decided on 11.02.2026)**, the Hon'ble Supreme Court has reiterated the relevance of the nature and gravity of the accusation, the criminal antecedents of the accused, and other circumstances bearing upon the proper exercise of discretion in matters of bail.

13. The applicant's young age and the period of approximate 11 months already undergone in custody have also been considered. Those factors are undisputedly relevant. However, the custody undergone so far is not of such extraordinary duration, having regard to the nature of the accusation, as would presently override the prima facie material and the other circumstances noticed above. This is particularly so when the applicant was arrested substantially after registration of the offence and the apprehension concerning his availability for the proceeding cannot at this stage be regarded as unfounded.

14. Thus, while the defence has raised issues concerning the absence of specific assault by the applicant, delay in holding the Test Identification Parade and absence of blood stains on the recovered weapons, those are matters which require appreciation during trial. At the present stage, the identification by the injured witness, the recovery attributed to the applicant, the surrounding prosecution material, his non availability during the investigation for a substantial period and the criminal antecedents to his discredit when cumulatively considered, constitute sufficient prima facie material against him. It would, therefore, not be appropriate to enlarge the applicant on bail at this stage.

15. In view of the above, the Application stands rejected.

(HITEN S. VENEGAVKAR, J.)

JPChavan