

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIRCUIT BENCH AT KOLHAPUR
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL ANTICIPATORY BAIL APPLICATION NO. 444 OF 2026

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VAIBHAV RAMESH
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Subhash @ Bapusaheb Laxman Jagtap ... Applicant
V/s.
The State of Maharashtra & Anr. ... Respondents

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Ms. Sana Raees Khan with Mr. Suraj Mulile i/by SRK Legal
for the Applicant.

Mr. S. S. Chaudhari, APP for the State.

Mr. Arvind G., IO, Kurdueadi Police Station, is present.

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CORAM : SHAILESH P. BRAHME, J.

DATE : OCTOBER 19, 2026

P.C.:

. Heard both sides.

2. The applicant is seeking pre-arrest bail in connection with Crime No. 254 of 2018, registered with Kurduwadi Police Station, for the offences punishable under Sections 302, 120-B, 504, 506, 143, 147, 148, 149 and 427 of the Indian Penal Code.

3. It was reported to the police that the deceased, Vicky Vishnu Gaikwad, was being assaulted on 17.06.2018 by the accused persons, including the present applicant. The applicant is alleged to have been

holding a sword and inciting the co-accused at the time of the incident. The deceased sustained multiple injuries and was declared to be dead. The report was lodged by Santosh on 17.06.2018

4. Applicant had submitted application for pre-arrest bail bearing Anticipatory Bail Application No. 337 of 2019. It was rejected on merits on 27.03.2019 by the coordinate Bench.

5. The investigation was completed and a charge-sheet was filed against the accused persons, except the present applicant. They were tried by the Sessions Court at Barshi in Sessions Case No. 6 of 2019. The co-accused were acquitted on merits vide judgment and order dated 10.02.2023. The prosecution examined five (5) eyewitnesses. Considering the oral evidence, the prosecution case was disbelieved and the accused persons were acquitted.

6. The applicant again filed an application before the Sessions Court bearing Criminal Bail Application No. 844 of 2025, which was rejected on 29.11.2025. In this backdrop, the present application is before this Court for consideration.

7. Learned counsel appearing for the applicant submits that the earlier rejection of ABA No. 337 of 2019 has not been suppressed. The co-accused have been acquitted on merits after considering the oral

evidence of five witnesses. The applicant has been implicated on account of political rivalry. The allegations against him are omnibus and no serious specific role has been attributed to him. Only one criminal antecedent can be pitted against him. He is stated to be ailing and a heart patient, running 59 years of age. It is further submitted that the informant himself had given a no-objection certificate before the Trial Court.

8. Per contra, learned APP submits that the applicant has been absconding since 2018 and that all efforts were made to secure his presence. The rejection of the earlier bail application on merits has been suppressed and that a successive bail application cannot be entertained. It is further submitted that the order rejecting the earlier bail application by the coordinate Bench records that ten (10) offences are disclosed against the applicant. Learned APP has emphasised that the conduct of the applicant is objectionable.

9. I have considered the rival submissions.

10. At the outset, it needs to be mentioned that the order dated 27.03.2019 passed in Anticipatory Bail Application No. 337 of 2019 has been annexed to the application and referred to therein.

11. The first attempt to secure protection was by Criminal Bail

Application No. 844 of 2025, it was rejected on 29/11/2025 by Sessions Court. The second attempt for securing protection of pre-arrest bail is made due to the supervening events of acquittal of co-accused recorded by the Sessions Court in Sessions Case No. 6 of 2019.

12. Learned counsel appearing for the applicant, on instructions from the client, has made a candid statement that the applicant is ready to abide by the conditions imposed by this Court and is also ready to pay costs as is imposed by this Court.

13. I have gone through First Information Report which refers the name of the applicant and his presence at the relevant time. He is attributed role of having sword and inciting co-accused at the relevant time. No specific overt act has been attributed as against him in the First Information Report. The co-accused were also holding swords and alleged to have assaulted the deceased.

14. The charge-sheet was filed against the accused persons and the applicant was shown to be absconding at that time. The prosecution examined five (5) eye-witnesses besides other witnesses in Sessions Case No. 6 of 2019. Learned counsel for the applicant has categorically pointed out the admissions given by the eye-witnesses which were recorded to be fatal in acquitting the co-accused.

15. Interestingly, the admissions pointed out in the depositions of the cross-examination of the eye-witnesses refer to present applicant also. Though present applicant was not before the Sessions Court, it cannot be said that he had any independent incriminating role segregable from co-accused. The acquittal on merits of the matter recorded by the Sessions Court in judgment dated 10.02.2023 would enure to the benefit of the present applicant.

16. It is relevant to notice that the cross-examination of PW No. 1, Santosh, who happened to be the informant, would mitigate the allegations. They are against the present applicant also. His cross-examination further shows that there is a political rivalry.

17. The applicant is shown to be absconding. My attention is adverted to the steps taken as against him, but I do not find that the steps which are required to be taken against his property or proclaiming him to be absconder have been taken. It was open for the Investigating Officer to take such steps against the applicant.

18. A candid statement has been made by the learned counsel appearing for the applicant that only one criminal antecedent is pitted against him. The earlier order of rejection shows ten (10) offences against him, but that is not corroborated by learned APP before me in the present proceeding. The rival contentions of the parties that the

applicant is not available at the relevant time for investigation can be taken care of by imposing appropriate conditions.

19. Considering the allegations against the applicant and overall material, I find substance in the submission of learned counsel for the applicant that applicant is entitled for the protection.

20. Learned APP has relied on the judgment of *Balmukund Singh Gautam v. State of Madhya Pradesh & Anr.*¹. I have gone through paragraph Nos. 45 to 47 and 50 of the judgment. The facts are distinguishable. In the present case, there is no allegation that the applicant was absconding and he was threatening the witnesses of the prosecution. The ocular testimony of eye-witnesses referring to the applicant has been considered by the Sessions Court in granting acquittal to the co-accused. The eye-witnesses and especially the informant did not support the prosecution case. This judgment would be of no benefit to the respondent.

21. Learned counsel for the applicant has also relied on the judgment of *Asha Dubey v. State of Madhya Pradesh*². I have gone through paragraph Nos. 8 and 9, which would corroborate the contention.

22. I, therefore, pass the following order:

¹ (2026) 6 SCC 216

² Criminal Appeal No.4564 of 2024, dated 12th November 2024.

23. Anticipatory Bail Application is allowed on following conditions:

- a) In the event of arrest, applicant - Subhash @ Bapusaheb Laxman Jagtap shall be released on bail in Crime No. 254 of 2018, registered with Kurduwadi Police Station, for offences under Sections 302, 120B, 504, 506, 143, 147, 148, 149 and 427 of the Indian Penal Code on furnishing PR bond of Rs. 50,000/- with one or two solvent sureties;
- b) The applicant shall not tamper with the prosecution evidence and contact the prosecution witnesses.
- c) The applicant shall inform his whereabouts and contact numbers to the Investigating Officer.
- d) The applicant shall surrender his Aadhar Card, PAN Card, if any, and furnish the mobile number or change in the mobile number to the Investigating Officer, if any.
- e) The applicant shall co-operate for expeditious disposal of the trial and attend the dates punctually.
- f) Applicant shall attend the police station concerned on every Sunday between 2:00 p.m. to 4:00 p.m..
- g) Applicant shall cooperate for investigation, if so required, to the

Investigating Officer;

h) The applicant shall deposit amount of Rs. 70,000/- to the account of the Chairman Police Welfare Fund, Supt. of Police, Solapur Rural, bearing Account Number: 11324938969, IFSC Code: SBIN0003072, Branch: SBI Solapur Treasury Branch within a period of four weeks, as volunteered by him.

24. Needless to mention that the observations of this Court are prima facie in nature.

(SHAILESH P. BRAHME, J.)