



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO. 198 OF 2025

Shaikh Kalim @ Kallu Shaikh Tajoddin
Age : 23 years, Occupation : Labour,
R/o : Behind Baraimam Mosque,
Near Mahamadia Madarsa, Khadakpara,
Nanded.

... Applicant

Versus

The State of Maharashtra
Through Vajirabad Police Station,
Taluka and District Nanded.

... Respondent

.....
Mr. Prashant P. Giri, Advocate for the Applicant.
Mr. C. V. Bhadane, APP for Respondent-State.

.....

CORAM : ABHAY S. WAGHWASE, J.

Reserved on : 19.03.2025

Pronounced on : 21.03.2025

ORDER :

1. This regular bail application is on account of arrest of the applicant in crime no. 281 of 2024 registered at Vajirabad Police Station, District Nanded for offences punishable under Sections 302, 201, 109, 143, 147 r/w 149 of IPC and Section 135 of the Maharashtra Police Act.

2. Pointing to the date of arrest of the applicant as 22.06.2024, learned counsel submitted that applicant is behind bars since almost nine months. He submitted that applicant is shown as accused no.2. Learned counsel submitted that law has been set into motion by Police Head Constable on alleged secret information about a dead body lying in the vicinity of a graveyard. This Constable/informant claims that he visited the site, came across a dead body of a male of 25 to 30 years age. Therefore on 19.06.2024, said Police Constable lodged report regarding murder of unknown person by unknown person by unknown weapon for unknown reason.

3. Learned counsel pointed out that subsequently, this informant gave supplementary statement on 29.07.2024, adding that investigation revealed that deceased was Lakhan Vijay Ghadge, resident of Tupari Vasahat, Taluka Palus, District Sangli, and he was residing in railway station area since a month or so, after losing his bag. In the said supplementary statement, it is further stated that on 17.06.2024, i.e. two days prior to the FIR, accused Shaikh Shahrukh @ Baba @ Ghodewala had quarreled with deceased in the backdrop of money transaction. That, investigation revealed that initially deceased Lakhan had hit on the right eye and ear of Shaikh Shahrukh

with some object and getting upset due to the same, it is further informed that (1) Shaikh Kalim @ Kallu Shaikh Tajoddin, (2) Md. Aayan s/o Md. Rafique, (3) Naif Abdul Jabbar @ Pappu s/o Naim Abdul Gafar, (4) Moin Abdul Sadeq Patel, (5) Abdul Razak s/o Abdul Sattar and (6) Amerkhan Rafikkhan searched for deceased and caught him in railway reservation office and there, he was beaten, dragged and taken in auto rickshaw and after being done to death by means of wooden stick and bricks, his dead body was thrown in the graveyard. Learned counsel pointed out that, with such sum and substance supplementary statement was recorded and applicant came to be arrested.

4. Learned counsel further pointed out that there is no foundation about the alleged money transaction or involvement of present applicant. He would question whether it is possible at all to beat and drag a person from railway reservation office without anybody noticing and further being taken for approximately 1 km. in auto rickshaw of which, according to learned counsel, there is no distinct evidence. He submitted that even otherwise, in the charge sheet, main allegations are levelled against accused nos. 3 to 6, who have been assigned greater role, and they are already released by the learned trial court itself.

5. Learned counsel submitted that there are CCTV cameras in the railway station premises. CCTV footage does not show present applicant to be in the said vicinity and in fact, those who are appearing in the footage are already granted bail. He also pointed out that there is video of the occurrence found in the seized mobile of accused Shaikh Shahrukh @ Baba @ Ghodewala, but such panchanama is also silent about presence of the present applicant. He pointed out that after nine days, statements of witnesses are recorded. Police claim that there is extra judicial confession which, according to learned counsel, is weakest circumstance. Moreover, he pointed out that applicant is behind bars since last almost nine months and charge sheet is filed way back in September 2024 itself, and that, in a few months, one year would be over since filing of charge sheet. That, matter is already committed. Charge is also not yet framed and so, he expresses serious concern about commencement of very trial and its conclusion also, when according to him, there is a long list of witnesses proposed to be examined by prosecution. That, no further recovery or discovery is to be made. According to him, entire case is based on circumstantial evidence. That, applicant is ready to abide all and any condition imposed by this Court. Hence, learned counsel urges this Court for grant of bail.

6. Learned APP opposed on the ground that serious offence like murder has been committed. That, though initially crime was against unknown person, investigation revealed that present applicant and other accused are responsible for death. They had beaten deceased in railway station premises, taken him in auto rickshaw towards graveyard and there also he was brutally beaten and done to death. There is evidence of all events that took place at railway station and journey in the auto rickshaw from railway station to graveyard. Applicant's role is also crystallized and therefore, learned APP opposed bail application.

7. Heard. As submitted, it does appear that crime is registered at the instance of Police Head Constable and he reported about receipt of some secret information regarding dead body of a male person lying in the vicinity of the graveyard of Lingayat community. On conducting spot visit, he reported occurrence resulting into registration of crime bearing no. 0281 of 2024 for murder of unknown person by unknown person by unknown weapon.

8. As pointed out, again, supplementary statement of this informant is recorded on 29.07.2024, i.e. one month after registration

of FIR. In this supplementary statement, story unfolded is that, accused Shaikh Shahrukh @ Baba @ Ghodewala had money transaction with deceased Lakhan, who is shown to be resident of taluka Palus, district Sangli, and getting annoyed for being hit by deceased on the eye with some object, he along with other accused named in the supplementary statement searched for deceased, found him in railway station premises, beat him there, dragged him out of railway station, took him towards graveyard in auto rickshaw while beating him all the way and committed his murder. This is the outcome of the investigation.

9. However, in the supplementary statement, how above story is evolved is *prima facie* not elaborated i.e. regarding acquaintance of deceased with accused Shaikh Shahrukh @ Baba @ Ghodewala, nature of transaction, episode of deceased initially assaulting accused no.1, where and when such instances took place, and then the rest of the story. As stated, deceased was shown to be resident of Tupari Vasahat, taluka Palus, district Sangli. The dead body was noticed by informant in the vicinity of Lingayat Crematory of Nanded Waghala Municipal Corporation, Nanded, and these places are two distinct districts.

10. Statement of father of deceased is also recorded on 24.06.2024 and father has reported that 5 to 6 months back, his son Lakhan, who was a driver, left the house but did not return for many days, and a month back, call was received from railway police questioning identity of Lakhan, reporting that Lakhan was found travelling without ticket. This itself shows that deceased was found in the vicinity of railway station area. However, statement is made across the bar by learned counsel that CCTV footage of railway station does not show present applicant to be either in the railway reservation office or on the platform. Such submissions are not countered. Therefore, apparently, there is no foundation about deceased first being caught at reservation office. It is pertinent to note that father is also not naming accused persons named in the supplementary statement, as he merely states about receiving information from police about dead body of his son found and they all being called to confirm identity. In his statement, father has stated that he got information about murder of his son done on 17.06.2024 by Shaikh Shahrukh @ Baba @ Ghodewala and his associates. Apparently, his statement is silent about any money transaction between main accused and deceased.

11. Therefore, as submitted, there is no head or tail at least in the papers before this Court to connect present applicant with main accused or deceased. Even otherwise, investigation is already completed and charge sheet is filed in September 2024, an aspect which is not refuted by learned APP. Even it is submitted by learned counsel for the applicant that till date, though matter is committed, charge is not framed. Therefore, future prospects of the trial are also uncertain. Taking above material into consideration, when no purpose would be served by further detention, considering the role attributed to the applicant, this Court is inclined to grant bail as prayed. Hence, I proceed to pass the following order :

ORDER

I. The application is allowed.

II. Applicant Shaikh Kalim @ Kallu Shaikh Tajoddin be released on bail in connection with Crime No. 281 of 2024 registered at Vajirabad Police Station, District Nanded, on executing Personal Bond of Rs. 50,000/- and sureties in the like amount, on the following conditions:

[a] The applicant shall not indulge in any criminal activities and shall not commit any offence similar to the offence of which he is suspected.

[b] The applicant shall not tamper prosecution evidence in any manner.

[c] The applicant shall not leave the area of jurisdiction of the concerned police station till conclusion of trial.

[d] In case of change in residential address, applicant shall inform the same to the trial court and to the Investigating Officer.

[e] The applicant shall give his mobile number to the Investigating Officer and shall keep the mobile phone operational at all times.

[f] The applicant shall attend the concerned police station twice in every week i.e. on every Monday and Thursday and maintain personal diary of his attendance till framing of charge and thereafter, shall regularly attend each and every effective date before the trial court.

[ABHAY S. WAGHWASE, J.]

vre