



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

BAIL APPLICATION NO. 1293 OF 2025

1. ANIL VISHWANATH MORE
2. KIRAN RAMDAS WAGH
VERSUS
THE STATE OF MAHARASHTRA

...
Advocate for Applicants : Mr. Shubham S. Kote
APP for Respondent : Mr. S. M. Ganachari
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CORAM : SACHIN S. DESHMUKH, J.

DATE : 10-12-2025

PER COURT:-

1. The applicants seek regular bail in connection with Crime No.529 of 2024 dated 06.11.2024 registered with Rahata Police Station, District - Ahmednagar, for the offences punishable under section 103(1) read with Section 3(5) of the Bharatiya Nyaya Sanhita, 2023.

2. The prosecution case is that the informant is brother of the deceased Ganesh. The alleged incident took place on 06.11.2024. A villager told the informant that his deceased brother was seriously injured and lying unconsciously in the basement of the Chhatrapati Complex, Rahata. The informant reached the spot of the incident and noticed that the deceased was grievously injured and murdered by the unknown person. Hence, the report is lodged.

3. In the interregnum, the investigation was carried out on the basis of report. In connection with the said crime, the applicants No.1 and 2 came to be arrested on 07.11.2024 and 08.11.2024, respectively. After completion of the investigation, the chargesheet was filed on 03.02.2025.

4. Learned counsel for the applicant submits that the prosecution case is premised entirely on circumstantial evidence, lacking any direct evidence or eyewitnesses to incriminate the applicants. It is contended that the prosecution's "last seen" theory is unfounded. The applicants and deceased shared a long-standing, cordial relationship, as such, there is absence of motive to commit the offence. No CDR report is placed on record and the authenticity of the CCTV footage remains untested. The applicants have been in jail for over eight months. Since the investigation is complete, and the chargesheet is filed, there is nothing further left to be interrogated or recovered at the instance of applicants. Hence, prayed to allow the application.

5. The learned A.P.P. vehemently opposes the application, emphasizing the seriousness of the offense. The prosecution submits that the applicants brutally murdered the deceased by strangulation with a nylon rope over a trivial dispute, leaving the body at the scene before fleeing. Also, CCTV footage of the alleged incident has been obtained by the investigation agency indicating

complicity of the applicants. Further expressed the apprehension that if applicants are released on bail, they may tamper with the evidence and also threaten the witnesses. As such, prayed to reject bail application .

6. The Honourable Apex Court, In the case of ***Ishwarji Nagaji Mali v. State of Gujarat and Anr., 2022 (6) SCC 609***, while considering legality of the order granting bail to the accused charged under Section 302 read with Section 120B of the Indian Penal Code. The Honourable Apex Court held that the High Court erred in granting bail without a proper appraisal of the gravity of the offence, the nature and quality of evidence collected during the investigation, and the settled judicial principles governing bail. The Honourable Apex Court has noted that the High Court had primarily relied on the accused's deep societal roots and the absence of any apprehension of his fleeing or tampering with the evidence. Such factors were regarded as insufficient for the purpose of granting bail in a serious crime like murder especially one involving an alleged criminal conspiracy.

7. The Honourable Apex Court has reiterated that while considering bail applications in serious offences, especially involving criminal conspiracy and premeditated murder, the Courts must examine factors beyond just the likelihood of the accused absconding.

8. In ***Gudikanti Narasimhulu v. Public Prosecutor, High Court of Andhra Pradesh, (1978) 1 SCC 240***, it was held that the nature of the charge, nature of evidence, and likelihood of the accused thwarting the course of justice are vital considerations.

9. The Honourable Apex Court in the case of ***Prahlad Singh Bhati v. NCT of Delhi, (2001) 4 SCC 280***, has emphasized that the jurisdiction to grant bail must be exercised judiciously and not arbitrarily, and highlighted several factors including the gravity of the offence, severity of punishment, risk of tampering with evidence, and the larger public interest.

10. Perusal of the material on record, including the chargesheet, specifically the postmortem report indicates the cause of death of the deceased is by strangulation. The CCTV footage, *prima facie* establishes the last seen theory of the prosecution. The seriousness of the offense and the evidence gathered during the investigation, including material recoveries, *prima facie* suggest the involvement of the applicants in the alleged crime.

11. If a person was last seen with the deceased, bear a burden to offer a plausible explanation as to how and when they parted company. Failure to provide a satisfactory explanation or remaining silent can be considered an additional link in the chain of circumstances, permitting the court to draw an adverse inference against them.

12. In view of the aforesaid discussion and circumstances, the bail application stands **rejected**.

13. Needless to state that the observations rendered herein are confined to decide this application and the trial court shall not be influenced by the same.

[SACHIN S. DESHMUKH]
JUDGE

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