



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO. 1420 OF 2025

IMROJ KHAN AYUB KHAN PATHAN
VERSUS
THE STATE OF MAHARASHTRA

...
Advocate for Applicant : Mr. Swapnil S. Rathi
APP for Respondents-State : Mr. S. G. Sangle
...

CORAM : SACHIN S. DESHMUKH, J.
Date : 1st December, 2025

ORDER :-

1. The applicant has approached this Court seeking regular bail in connection with FIR bearing Crime No. 795 of 2023 registered with Hingoli City Police Station for the offences punishable under Section 302 of the Indian Penal Code and Section 4 read with Section 27 of the Indian Arms Act.

2. Heard the learned counsel for the applicant and learned APP for the State.

3. In order to support the contentions, the learned counsel for applicant has placed reliance on the following judgments.

(a) **Javed Gulam Nabi Shaikh Vs. State of Maharashtra and Anr. (AIROnline 2024 Sc 497)**

- (b) **Bail Application No. 1518 of 2024 (Jagdishsingh Bavari Vs. State of Maharashtra and Anr.)** dated 14.10.2024 delivered by Coordinate Bench of this Court.

4. It is matter of record that earlier, the applicant has approached this Court seeking regular bail in Bail Application No. 1895 of 2024, which came to be disposed of as withdrawn with liberty to file fresh application on receipt of CA report, which is still awaiting.

5. A perusal of record indicates that the complaint was lodged with Hingoli City Police Station with allegation of commission of murder of the real brother of the complainant. The complaint contains the allegation that the motorcycle used by deceased was lying adjoining to railway track and within the precinct of the same, the dead body of deceased brother was found lying in the pool of blood.

6. After verification of the CCTV footage in the area, it was revealed that the present applicant was last seen with the deceased. Accordingly, the crime was registered against the present applicant. Thereafter, during the course of investigation, the statements of witnesses were recorded wherein the deceased was found to be accompanied with the applicant and the same

statement is maintained by the other witnesses. Even, the witnesses further state that the deceased was found to be a pillion rider on the motorcycle of the applicant. It is only thereafter the body of the deceased was noted. Thus, the prima facie involvement of the applicant is rather apparent.

7. Further statements of witnesses depict that the applicant and deceased had consumed the beer alongwith chips and proceeded on the motorcycle driven by the applicant towards railway track. Thus, prima facie, there is sufficient material to indicate the complicity of the applicant in the alleged incident.

8. Apart from the aforesaid fact, the application presented by the applicant is a successive one and the earlier application seeking bail was withdrawn. As such, no substantial change in circumstance is pointed out.

9. The applicant is facing the charge of murder which is punishable with death sentence or imprisonment for life. The Hon'ble Apex Court in case of **Kalyan Chandra Sarkar and Ors. Vs. Rajesh Ranjan and Ors. [(2004)7 SCC 528]**, while laying down the guidelines for grant or refusal of bail in serious offences

like murder, has observed as under :

"11. The law in regard to grant or refusal of bail is very well settled. The court granting bail should exercise its discretion in a judicious manner and not as a matter of course. Though at the stage of granting bail a detailed examination of evidence and elaborate documentation of the merit of the case need not be undertaken, there is a need to indicate in such orders reasons for prima facie concluding why bail was being granted particularly where the accused is charged of having committed a serious offence. Any order devoid of such reasons would suffer from non-application of mind. It is also necessary for the court granting bail to consider among other circumstances, the following factors also before granting bail; they are:

(a) The nature of accusation and the severity of punishment in case of conviction and the nature of supporting evidence.

(b) Reasonable apprehension of tampering with the witness or apprehension of threat to the complainant.

(c) Prima facie satisfaction of the court in support of the charge. (See Ram Govind Upadhyay v. Sudarshan Singh and Puran v. Rambilas.)

12. In regard to cases where earlier bail applications have been rejected there is a further onus on the court to consider the subsequent application for grant of bail by noticing the grounds on which earlier bail applications have been rejected and after such consideration if the court is of the opinion that bail has to be granted then said court will have to give specific reasons why in spite of such earlier rejection the subsequent application for bail should be granted."

10. Thus, the Hon'ble Apex Court has underscored the obligation of the Court when an earlier bail application has been

rejected. A significant onus is placed on the Court while deciding a successive bail application/s to justify the grant of bail. The Court must specifically consider the grounds on which the previous application was rejected. If, after this consideration, the Court forms an opinion that bail should be granted, it must record explicit, specific reasons for doing so.

11. The Hon'ble Apex Court in the case of **Mahipal Vs. Rajesh Kumar and Ors. (AIR 2020 SC 670)** has laid down the principle that bail can be refused when the material produced by prosecution establishes a clear prima facie case. The Court should not conduct a mini-trial; it should only examine whether the available evidence links the accused to the alleged offense.

12. In the present case, the prosecution case has produced substantial circumstantial evidence. In my considered view, the prosecution has sufficiently established the 'last seen together' theory alongwith other corroborative material. As such, as has been held by the Hon'ble Apex Court in case of **Satpal Singh Vs. State of Haryana [(2020)2 SCC 118]** that bail ought to be withheld, if prosecution has established the 'last seen together' circumstance alongwith corroborative material.

13. Considering the material currently available, a clear prima facie case is made out showing the involvement of the accused. Equally, the Hon'ble Apex Court has consistently reiterated that when considering bail application/s in serious offenses—such as pre-meditated murder—the Court must treat vital considerations like the nature of the charge and the nature of the evidence as paramount.

14. Upon careful perusal of the grounds raised in the present application, this Court finds that the contentions raised are repetitive and those were already considered by this Court. No fresh have been brought to the notice of the Court justifying reconsideration of the matter to change the view previously taken by this Court. It is rather established principle that the successive bail application must be founded on material with change in circumstance. In absence of such change, the application deserves to be rejected.

15. In view of the aforesaid observations and having regard to the gravity of the offence, I do not find merit in the present application and accordingly, the bail application is **rejected**.

(SACHIN S. DESHMUKH, J.)

Omkar Joshi