



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO. 1700 OF 2025

Santosh Ashok Deshmukh

VERSUS

The State Of Maharashtra

...

- Mr. R. N. Dhorde, Senior Advocate i/by Mr. V. R. Dhorde, Advocate for Applicant
- Mr. R. D. Raut, APP for Respondent - State

...

CORAM : MEHROZ K. PATHAN, J.

RESERVED ON : 26.11.2025

PRONOUNCED ON : 05.12.2025

PER COURT :

1. The applicant – Santosh Ashok Deshmukh has approached this Court seeking regular bail in connection with FIR bearing Crime No. 0083 of 2025, dated 31.03.2025, registered with Sirsala Police Station, District – Beed for the offences punishable under Sections 103(1), 189(4), 190, 191(3) of the Bhartiya Nyaya Sanhita (BNS), 2023 and Section 135 of the Maharashtra Police Act, 1951.

2. The case of the prosecution is that on 30.03.2025 at about 6.30 p.m., the first informant – Ramkisan Atmaram Deshmukh was working in his agricultural field. He received a phone call from his daughter-in-law, who informed him that a quarrel was going on

between her husband and the present applicant – Santosh Ashok Deshmukh at the bus stop. The first informant immediately went towards the bus stop, but nobody informed him about the incident. Thereafter, one Dr. Ramakant Deshmukh informed him that the applicant – Santosh had assaulted his son Swapnil @ Bablya Deshmukh with a cotton plant puller/tong on his head and that other family members of the applicant had beaten Swapnil @ Bablya with stones. The informant then went to the agricultural field of the applicant, where he found his son lying in a pool of blood. Finding nobody present there, he tried to raise his son, but there was no response and his son had already passed away. Consequently, he lodged the FIR at Sirsala Police Station.

3. Mr. Dhorde, learned Senior Counsel for the applicant submits that there are major discrepancies in the FIR and the supplementary statement of the first informant. The supplementary statement, which was recorded on 21.06.2025, after about three months of lodging of the FIR, narrates a new version stating that the complainant was informed by his younger son Amol @ Suraj @ Bhambya Deshmukh on phone about the assault by Santosh Ashok Deshmukh, Anil Laxman Warkari, Sonali Santosh Deshmukh, Rambhau Bapurao Deshmukh, Shyam Rambhau Deshmukh, Akshay Rambhau Deshmukh, Rajebhau S/o Vitthalrao Deshmukh and others, and that

he was asked to immediately go to the agricultural field of applicant – Santosh Ashok Deshmukh. It is further stated that upon reaching the spot, the complainant allegedly witnessed Santosh Ashok Deshmukh assaulting the deceased Swapnil @ Bablya Deshmukh with a tong, while Anil Laxman Warkari, Sonali Santosh Deshmukh, Rambhau Bapurao Deshmukh, Shyam Rambhau Deshmukh, Akshay Rambhau Deshmukh and Rajebhau S/o Vitthalrao Deshmukh assaulted the deceased with stones. Further role is attributed to Balika Ashok Deshmukh, Mira w/o Avinash Deshmukh, Godavari @ Saraswati Rajebhau Deshmukh and Radha w/o Rambhau Deshmukh. Learned Senior Counsel submits that the improvements render the prosecution version unreliable.

4. Learned Senior Counsel further submits that the statement of Amol @ Suraj @ Bhambya Deshmukh (brother of the deceased) was recorded after four days of the incident i.e. on 04.04.2025. It is contended that the minute description of roles of each accused through a phone call allegedly received from the deceased is improbable and clearly an afterthought to falsely implicate the entire family of the applicant.

5. Learned Senior Counsel submits that other co-accused namely Rajebhau S/o Vitthalrao Deshmukh (order dated 06.08.2025 in Criminal Bail Application No. 187 of 2025), Rambhau Bapurao

Deshmukh, Sonali Santosh Deshmukh, Shyam Rambhau Deshmukh and Anil Laxman Warkari (order dated 23.07.2025 in Sessions Case No. 31 of 2025) have been granted bail and the present applicant is entitled to parity.

6. The learned Senior Counsel further seeks parity on the ground that the other co-accused persons, namely Sonali Santosh Deshmukh, Sham Rambhau Deshmukh, and Anil Laxman Warkari, who were also charged for the offence of committing the murder of the deceased Swapnil @ Bablya, have been released on regular bail in the present crime. He places reliance upon the order dated 23.07.2025, passed by the learned Additional Sessions Judge, Kaij, in Sessions Case No. 31 of 2025, and the orders below Exhibits 10, 11, and 12. It is submitted by the learned counsel for the applicant that Rambhau Deshmukh and Sham Deshmukh were specifically attributed an active role in the commission of the crime; notwithstanding this, the learned trial Court released the aforesaid four accused on regular bail on the ground that the personal liberty of the accused cannot be curtailed till the conclusion of the trial.

7. Learned Senior Counsel further places reliance on the order passed by the learned Additional Sessions Judge, Kaij, in the case of Balika Ashok Deshmukh, Meera w/o Avinash Deshmukh, and Radha w/o Rambhau Deshmukh, in Criminal Bail Application No. 160 of

2025, dated 23.07.2025, whereby the aforesaid three accused persons were released on bail on the ground that the charge-sheet had already been filed. The learned Court, while granting bail, made specific observations regarding the discrepancies between the First Information Report dated 31.03.2025 lodged by the complainant Ramkisan Atmaram Deshmukh and the supplementary statement recorded after three months i.e. on 21.06.2025. Noting the said discrepancies, the learned Sessions Court extended the benefit thereof to the applicants and released them on anticipatory bail.

8. The learned Senior Counsel further relies, on the ground of parity, upon the order dated 23.07.2025 passed by the learned Additional Sessions Judge, Kaij, in the case of Saraswati @ Godavari Rajebhau Deshmukh, in Criminal Bail Application No. 60 of 2025, wherein the said applicant was also released on anticipatory bail, despite the charge of committing the murder of the deceased.

9. The learned Senior Counsel for the applicant submits that there is no eye-witness to the incident and that the possibility of the applicant being falsely implicated in the present crime cannot be ruled out, particularly in view of the major discrepancies between the First Information Report and the supplementary statement dated 21.06.2025 of the informant Ramkisan Deshmukh. The learned Senior Counsel further relies upon a prior First Information Report

bearing No. 42 of 2023, lodged at the instance of the present applicant Santosh Deshmukh, wherein it was alleged that his brother Avinash Deshmukh had committed suicide due to abetment by the deceased Swapnil @ Bablya Deshmukh, and two other accused persons.

10. Learned Senior Counsel for the applicant has placed reliance upon the statement of Aditya Shinde to contend that the deceased Swapnil @ Bablya was in the company of the said witness Aditya Shinde on 30.03.2025 after 3.00 p.m., and that the deceased had consumed alcohol. On the basis of the said statement, learned Senior Counsel submits that the deceased was in the company of Aditya Shinde, and therefore, the allegations against the applicant regarding the commission of murder of the deceased Swapnil @ Bablya cannot be believed.

11. The learned Senior Counsel, therefore, submits that the existence of prior enmity is a double-edged sword, thereby supporting the contention that subsequent false implication of the applicant cannot be ruled out. It is further submitted that no weapon has been recovered at the instance of the present applicant in connection with the commission of the offence. In the absence of any eye-witness to the incident, it is urged that the applicant be released on regular bail, as the trial is likely to take considerable time to

conclude and continued incarceration would amount to pre-trial punishment.

12. As against this, the learned APP submits that the offence is serious in nature and that the prosecution has collected ample evidence to bring home the guilt of the present applicant in the said crime. It is further submitted that transcripts of the call detail records between the deceased and the said witness – Amol @ Suraj (brother of the deceased) at the time of commission of the offence have been collected by the Investigating Officer, wherein the details of the conversation are recorded. The voice sample of the present applicant was also obtained while he was in custody, and the entire material has been forwarded to the forensic laboratory for obtaining its report, which is yet to be received. The learned APP further submits that the role attributed to the present applicant is distinct and not comparable to that of the other accused persons who have been released on bail, and therefore, the present application deserves to be rejected not only on merits but also on the ground of parity.

13. I have perused the charge-sheet filed along with the present application and considered the submissions advanced by the learned Senior Counsel Mr. Dhorde, and also the submissions of the learned APP. The perusal of the charge-sheet reveals major discrepancies between the First Information Report lodged by the complainant

Ramkisan Deshmukh and the supplementary statement recorded by the prosecution after almost three (03) months of the incident.

14. The perusal of the First Information Report dated 31.03.2025 reveals that after the complainant reached the spot of the incident, namely the agricultural field of the applicant Santosh Deshmukh, the deceased Swapnil @ Bablya Deshmukh was found lying dead and nobody was present at the spot. However, in the supplementary statement dated 21.06.2025, the complainant Ramkisan Deshmukh has improved his version by stating that he had received a phone call from his younger son Amol @ Suraj, who informed him that the applicant Santosh Deshmukh was assaulting the deceased Swapnil @ Bablya Deshmukh in the agricultural field. It is further stated that upon reaching the spot, the complainant saw the applicant Santosh Deshmukh assaulting the deceased with a tong. Further, in the supplementary statement, the complainant has implicated 11 accused persons, alleging that they actively participated in the assault, which resulted in the death of the deceased.

15. Be that as it may, the statement of the witness Amol @ Suraj (brother of the deceased), recorded on 04.04.2025, i.e. four days after the incident, assumes significance. The said statement reveals that on 30.03.2025, Amol @ Suraj received a phone call from the deceased Swapnil @ Bablya, from mobile number 8010386005, on

his mobile number 9021213670. During the phone call, the phone was allegedly handed over to Santosh Deshmukh, who stated that he would not spare the deceased Swapnil @ Bablya that day and referred to the suicide of his brother at the same place, alleging that the deceased was responsible for the same dispute. It is further stated that the other accused persons were present and were instigating the applicant - Santosh not to spare the deceased, after which the assault commenced and the phone call was disconnected after some time.

16. Thereafter, Amol @ Suraj attempted to call the deceased again, but the phone was not received. Subsequently, Amol @ Suraj contacted Akshay Deshmukh, who informed him that they had already killed his brother Swapnil @ Bablya. Thereafter, Amol @ Suraj immediately informed his father, the complainant Ramkisan Deshmukh, about the said incident.

17. The statement of Amol @ Suraj goes to the root of the matter and is corroborated by the call detail records pertaining to the mobile phones of the deceased and the witness Amol @ Suraj. The prosecution has also obtained CDR of the phone calls and prepared a transcript of the telephonic conversation between the deceased and Amol @ Suraj, wherein the applicant Santosh Deshmukh is alleged to have spoken about killing the deceased Swapnil @ Bablya Deshmukh to take revenge for the suicide of his brother, which he attributed to

the deceased.

18. The said telephonic conversation transcript was matched with the voice sample of the applicant Santosh Deshmukh, obtained during his custody, and a separate panchnama has been prepared in that regard. The transcript panchnama specifically discloses the overt acts attributed to the applicant in the commission of the murder of the deceased and thus corroborates the version of the witness Amol @ Suraj. In addition thereto, the statements of Amol @ Suraj has been recorded under Section 183 of the Bharatiya Nyaya Sanhita before the learned Magistrate, wherein he has consistently adhered to his earlier versions.

19. The perusal of the statement of the witness Aditya Shinde reveals that after the deceased Swapnil @ Bablya was consuming liquor with Anil Warkari, Anil Warkari left the company of the deceased and did not return for some time. Thereafter, the deceased Swapnil @ Bablya asked Aditya Shinde to enquire as to why Anil Warkari had not returned. Accordingly, Aditya Shinde went to the house of Anil Warkari, where he saw Anil Warkari engaged in a discussion with the present applicant Santosh Deshmukh and Akshay Deshmukh. The witness Aditya Shinde informed Anil Warkari that the deceased Swapnil @ Bablya was waiting for him. Subsequently, Anil Warkari returned and again started consuming liquor with the

deceased Swapnil @ Bablya, during which he asked the deceased to settle the old disputes with the present applicant Santosh Deshmukh.

20. Thereafter, Aditya Shinde had already left the company of the deceased, leaving Swapnil @ Bablya in the company of Anil Warkari, who had earlier interacted with Santosh Deshmukh and Akshay Deshmukh. Therefore, the statement of Aditya Shinde is of no assistance to the applicant; rather, the said statement, on the contrary, corroborates the prosecution case.

21. I have minutely perused the charge-sheet. It further reveals that the applicant was arrested on the next day of the incident, i.e. on 31.03.2025, and that blood-stained clothes were seized from his possession, as can be seen from the seizure panchnama. The spot panchnama shows that the Tong, which is alleged to have been used by the applicant to kill the deceased – Swapnil @ Bablya, was found at the spot, along with one knife. The post-mortem report though does not indicate use of any sharp weapon; however, it is the case of the prosecution that the applicant used a Tong to cause the said injuries to the deceased.

22. The post-mortem report shows nine injuries on the person of the deceased, including three injuries on the head, consisting of multiple under-scalp hematomas over the fronto-parietal and temporo-occipital regions, along with comminuted depressed

fractures of the frontal and temporal bones, involving the anterior and middle cranial fossae, with irregular fracture margins and blood infiltration. Thus, there is ample material collected by the prosecution to bring home the guilt of the present applicant.

23. Insofar as the ground of parity is concerned, the perusal of the order passed by the learned Sessions Judge, Kaij, in the case of accused Rajebhau Deshmukh, vide order dated 06.08.2025, passed in Criminal Bail Application No. 187 of 2025, would show that the accused therein was granted bail on the ground that the First Information Report as well as the supplementary statements nowhere attributed any overt act or use of weapon to the said accused – Rajebhau Deshmukh.

24. The perusal of the other orders further reveals that accused Rambhau Bapurao Deshmukh, Sonali Santosh Deshmukh, Sham Deshmukh and Anil Laxman Warkari were released on regular bail in the said crime, despite being charged for the offence of committing murder of the deceased – Swapnil @ Bablya. The learned Additional Sessions Judge, Kaij, by order dated 23.07.2025 passed in Sessions Case No. 31 of 2025, extended the benefit mainly on the ground that the post-mortem report reflected that the death of the deceased occurred due to head injuries. However, a careful scrutiny of the material on record would show that the transcript prepared by the

prosecution does not attribute any specific overt act of assault to the said accused persons, namely Rambhau Bapurao Deshmukh, Sonali Santosh Deshmukh, Sham Rambhau Deshmukh and Anil Laxman Warkari. Their role is, therefore, clearly distinguishable from that of the present applicant, against whom specific and direct allegations are supported by the material placed on record. Consequently, the benefit of parity, as claimed, cannot be extended to the present applicant.

25. Insofar as the case of Balika Ashok Deshmukh, Meera w/o Avinash Deshmukh and Radha w/o Rambhau Deshmukh, decided by the learned Additional Sessions Judge, Kaij, in Criminal Bail Application No. 160 of 2025, by order dated 23.07.2025, is concerned, the perusal of the said order would show that the aforesaid accused persons were not attributed any role either in the First Information Report or in the supplementary statement. In view thereof, the learned Court extended the benefit of anticipatory bail. It is thus evident that all the three women accused were released solely on the ground that no overt act was attributed to them either in the FIR or in the supplementary statement, and their case stands on a footing entirely distinct from that of the present applicant.

26. Insofar as the case of Saraswati @ Godavari Rajebhau Deshmukh, decided in Criminal Bail Application No. 60 of 2025 by

order dated 23.07.2025, passed by the learned Additional Sessions Judge, Kaij, is concerned, the perusal of the said order would show that neither the First Information Report nor the supplementary statements attributed any role to the applicant therein, namely Saraswati @ Godavari Rajebhau Deshmukh, of holding any weapon, including a stick. It was further noted that the said applicant Saraswati @ Godavari Rajebhau Deshmukh is the wife of one of the witnesses in Crime No. 46 of 2023, registered under Section 306 of the Indian Penal Code, in respect of the death of the real brother of the present applicant – Santosh Deshmukh. On these considerations, the said applicant Saraswati @ Godavari Rajebhau Deshmukh was released on anticipatory bail.

27. Insofar as the case of Akshay Rambhau Deshmukh is concerned, the prosecution had opposed the bail application of the said applicant by contending that Akshay Rambhau Deshmukh was holding a dangerous weapon, namely a Sattur. However, the learned Sessions Judge, Kaij, observed that neither the First Information Report nor the supplementary statement attributed any role to the applicant therein – Akshay Rambhau Deshmukh, of carrying or using any weapon. On that ground, the applicant – Akshay Rambhau Deshmukh was also released on anticipatory bail in Criminal Bail Application No. 59 of 2025, dated 23.07.2025.

28. Thus, after detailed consideration of the observations recorded by the learned Sessions Judge while granting bail to the aforesaid accused persons would show that, despite noticing discrepancies between the First Information Report lodged by the complainant – Ramkisan Deshmukh and the supplementary statements, the decisive factor for grant of bail in those cases was the absence of any specific overt act or attribution of use of weapon to the applicants therein. Resultantly, those orders do not advance the case of the present applicant, against whom specific and direct allegations supported by material evidence are placed on record. The crime chart placed on record of the deceased Swapnil @ Bablya is of no relevance for deciding the present bail application.

29. As observed hereinabove, the prosecution has placed on record sufficient material, independent of the alleged exaggerated version in the supplementary statement of the complainant – Ramkisan Deshmukh, which, *prima facie*, is adequate to bring home the guilt of the present applicant and to frame a charge for commission of murder of the deceased – Swapnil @ Bablya. The telephonic conversation transcripts, the blood-stained clothes of the applicant – Santosh Deshmukh, and the blood-stained weapons recovered from the spot, namely the agricultural field of the applicant – Santosh Deshmukh, coupled with the statements of Amol @ Suraj (brother of

the deceased) and Aditya Shinde, sufficiently corroborate the prosecution case based on circumstantial evidence along with the motive to take revenge of the suicide of the brother of the applicant.

30. In view of the aforesaid material and considering the nature and gravity of the offence, I am of the considered view that no case is made out for exercise of discretion in favour of the present applicant – Santosh Ashok Deshmukh for release on bail. Hence, the following order :-

ORDER

A) The Bail Application is hereby rejected and disposed of accordingly.

31. It is clarified that the observations made herein are prima facie in nature, made only for the purpose of deciding the present application, and shall not influence the Trial Court or any other Court.

(MEHROZ K. PATHAN, J.)