



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO. 1777 OF 2025

MAHADU KPRABHAKAR AHIRE

VERSUS

THE COMMISSIONER OF POLICE AND ANOTHER

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Advocate for Applicant : Mr. Aakash V. Bagal

APP for Respondents-State : Ms. R. R. Tandale

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CORAM : SACHIN S. DESHMUKH, J.

Date : 4th December, 2025

PER COURT :-

1. The applicant has approached this Court seeking regular bail in connection with FIR dated 18.05.2021 bearing Crime No. 129 of 2021 registered with Nilanga Police Station, for the offences punishable under Sections 302, 307, 143, 147, 148, 324, 323, 504 and 506 read with 149 of the Indian Penal Code alongwith Section 135 of the Maharashtra Police Act.

2. The case of the prosecution is that on 31.7.2023, at about 4.30 p.m. when the Informant was sitting in his house, unknown persons entered his room with a pistol in hand and fired two bullets towards the Informant. The culprit had covered his face with a white cloth and was wearing T-Shirt. Thereafter, culprit ran away from the home. Son of the informant attempted to catch hold

of the culprit. During the scuffle, the culprit was de-masked and son of the informant saw his face. Allegedly, one more person had accompanied the culprit, waiting near the stair case.

3. On the basis of the aforesaid information, the offence u/s 307 of the IPC and section 3, 25 of Arms act came to be registered against unknown culprits. During course of the investigation, accused persons are apprehended on 3.8.2023.

4. Learned counsel appearing for the applicant submits that the applicant has been falsely implicated in the aforesaid crime. Identification parade is not carried in respect of the applicant nor has been identified in the CCTV footage collected during the course of the investigation. Hence, it is prayed to release the applicant on bail.

5. Per contra, the learned APP strongly opposed the application and prayed for rejection submitting that the offence is serious in nature and relied on the material in chargesheet.

6. Admittedly, this is a successive bail application presented by the applicant. Previous bail application i.e. Bail

Application No. 2347 of 2023 is disposed of as withdrawn vide order dated 12.01.2024 of this Court.

7. Having heard the learned counsel for applicant and learned APP for State, 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."

8. 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.

9. 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.

10. 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 to be withheld, if prosecution has established the 'last seen together' circumstance alongwith corroborative material.

11. Considering the material currently available, a clear prima facie case is made out indicating 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.

12. 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 and

eventually, rejected the same while passing the previous bail order. No fresh grounds 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.

13. 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