



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO. 2316 OF 2025

SHUBHAM NARAYAN WAGH
VERSUS
THE STATE OF MAHARASHTRA

Advocate for Applicant : Mr. B. N. Magar
APP for Respondents-Stat : Mr. S. N. Morampalle

CORAM : SACHIN S. DESHMUKH, J.
Date : 5th December, 2025

ORDER :-

1. The applicant has approached this Court seeking regular bail in connection with FIR dated 08.02.2023 bearing Crime No. 0044 of 2023 registered with Vaijapur Police Station, Dist. Chhatrapati Sambhajnagar for the offences punishable under Sections 302 and 201 read with 34 of the Indian Penal Code.

2. The genesis of the offence is related to the death of the Narayan Wagh on 07.02.2023. The case of the prosecution, in brief, is that an FIR has been lodged by informant Police Patil of Dhondalgaon village, that the informant received information on mobile from one Rameshwar Awhar that a noise of quarrel was heard in front of house of deceased Narayan Wagh, involving a fight between Narayan and his children. Subsequently, informant

along with Vilas Wagh and Balasaheb Wagh, reached on the spot, where Vikas Wagh, Shuham Wagh, Indubai Wagh, Rustum Wagh, and Chitrabai Wagh were present. Informant noted that 2 to 3 stones were lying on the spot. Shubham Wagh and Vikas Wagh confessed that their father frequently quarrelled with family members under the influence of liquor. Consequently, they killed him by assaulting him with stones and an iron rod, and thereafter, by pouring kerosene on deceased, set the corpus on fire. Police Patil then informed the police team and transported the deceased body to the hospital.

3. The previous application presented by the applicant bearing Bail Application No. 1305 of 2023 was dismissed as withdrawn by an order of this Court dated 20.10.2023 of this Court.

4. In the aforesaid backdrop, the learned counsel for applicant submits that since the other accused namely Vikas Narayan Wagh who is similarly situated, has been enlarged on bail in a successive bail application by this Court, would entail the applicant to claim the bail on the ground of parity. It is further submitted that the case is based on the confessional statement. As such, further incarceration of the applicant is not warranted. Hence, prayed to allow the application.

5. The learned APP has submitted that the prosecution has cited in all 22 witnesses. It is further submitted that the Investigating Officer has seized various articles from the spot. Perusal of charge-sheet indicates that there is direct evidence. As such, applicant is not entitled to claim the regular bail. Hence, prayed to reject the application.

6. It is also submitted in any case, this is a successive bail application and there is no change in the circumstances. Initially, application of the applicant was dismissed as withdrawn. This Court must give serious consideration while dealing with maintainability of successive bail application at a subsequent stage when the earlier bail application had been rejected.

7. It is further submitted that this Court must give weight to changes in fact, situation, or law, or where earlier findings have become obsolete, as legitimate grounds for maintaining a successive bail application/s. The grounds canvassed in the earlier order are not permitted to be re-agitated on the same basis, as doing so would lead to uncertainty or inequality in the administration of justice.

8. Having heard the learned counsel for applicant and learned APP for State, perused material on record including chargesheet, 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 :

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."

9. 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.

10. A perusal of the order in Criminal Application No. 1379 of 2025, upon which the learned counsel for the applicant places heavy reliance, reveals no specific reasons for the grant of bail to the co-accused. As such, that order does not lend support to the

present applicant's claim for parity or bail.

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. Equally, the Hon'ble Apex Court in case of **State of UP through CBI Vs. Amaramani Tripathi [(2005)8 SCC 21]**, has held that the Court must evaluate the prima facie evidence showing the applicant's involvement. If such evidence is credible and supports the accusations, bail may be refused. As stated earlier, the prosecution has collected overwhelming evidence against the present applicant.

13. Similarly, the Hon'ble Apex Court in case of **Pralhad Singh Bhati Vs. NCT, Delhi [(2001)4 SCC 280]**, held that on satisfaction of prima facie evidence establishing the guilt of the accused, the bail can be denied.

14. Similarly, the Hon'ble Apex Court in case of **Ram Govind Upadhyay Vs. Sudarshan Singh [(2002)3 SCC 598]**, has held that a judicial discretion in granting bail must not be

exercised whimsically, especially in heinous offences.

15. The Hon'ble Apex Court in case of **Prasanta Kumar Sarkar Vs. Ashis Chatterjee [(2010)14 SCC 496]**, has held that the mechanical grant of bail reflects non-application of mind, and outlined eight crucial factors to be considered, including reasonable ground for belief in guilt, nature of evidence and possibility of justice being thwarted.

16. In **Neeru Yadav Vs. State of UP [(2016)15 SCC 422]**, the Hon'ble Apex Court has held that the Courts must not casually ignore the criminal antecedents of the accused and must remain vigilant in heinous offences. The same principles were again re-affirmed by the Hon'ble Apex Court in case of **Anil Kumar Yadav Vs. State (NCT of Delhi) [(2018)12 SCC 129]**.

17. In the present case, the statement of witnesses, Chitra Narayan Wagh and Rameshwar Aaware, recorded under Section 161 of CrPC, *prima facie*, indicates that both the accused assaulted the deceased with stones and an iron rod. Apart from assault even corpus was set on fire. As such, there is, *prima facie*, overwhelming evidence in the case that sufficiently establishes the complicity of the applicant.

18. The Hon'ble Apex Court in case of **State of Bihar Vs.**

Amit Kumar [(2017)13 SCC 751], has held that delay in trial especially in cases involving serious offences, cannot by itself be a ground for bail. In the present case, the trial is progressing and further the prosecution has demonstrated the efforts to conclude the trial. Considering the seriousness of the offences involved, the overwhelming material weighs against the applicant.

19. Considering the material currently available, a *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.

20. So far as the submission of the learned counsel for applicant in relation to delay in trial, the same cannot be considered in isolation. As has been held by Hon'ble Apex Court in case of **Amit Kumar** (supra), the delay especially in cases involving serious offences, cannot by itself be a ground for bail.

21. Upon careful perusal of the grounds raised in the present application, this Court finds that the contentions raised are repetitive and those were already advanced and considered by this Court and eventually, rejected the same while rejecting the bail

order in earlier application. No fresh reasons 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.

22. To secure bail, the applicant must establish that the evidence collected and intended to be presented by the prosecution fails to establish a prima facie case of the applicant's involvement in or commission of the alleged offence. Since this necessary aspect has not been satisfied by the applicant, the applicant is presently disentitled to claim the bail.

23. 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