



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO. 2326 OF 2024

Pratik Haridas Nimbalkar,
Age: 21 years, Occ: Labour,
R/o. Indraprastha Nagar, Jalgaon,
Dist. Jalgaon.

... Applicant

Versus

The State of Maharashtra,
Through Investigating Officer,
Jalgaon City Police Station,
Tq. Jalgaon, Dist. Jalgaon.

... Respondent

**WITH
CRIMINAL APPLICATION NO. 155 OF 2025
IN BAIL APPLICATION NO. 2326 OF 2024**

Tirona Bharat Sonawane
Age : 45 years, Occu: Household,
R/o: Siddhivinayak Park, Kanalda Road,
Jalgaon.

... Applicant

Versus

1. State of Maharashtra
Through City Police Station,
Taluka and District Jalgaon.

2. Pratik Haridas Nimbalkar
Age: Major, Occ:
R/o Siddhivinayak Park, Kanalda Road,
Jalgaon.

... Respondents

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Ms. Rani K. Agrawal, Advocate for the Applicant in Bail Application
No. 2326 of 2024.

Mr. C. V. Bhadane, APP for the Respondent-State.

Mr. M. G. Patil, Advocate for the Applicant in Criminal Application
No. 155 of 2025

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CORAM : ABHAY S. WAGHWASE, J.

Date : 20.02.2025

ORDER :

1. Criminal Application No. 155 of 2025 is at the instance of the informant, seeking leave to assist learned APP. For the reasons mentioned in the application, the applicant is allowed to assist learned APP in opposing the bail application. The application is accordingly disposed off.
2. Instant application is for grant of regular bail on account of arrest of applicant in crime no. 214 of 2020 registered at Jalgaon City Police Station, District Jalgaon for offence under Section 302 r/w 34 of IPC and Section 4/25 of the Arms Act.
3. Pointing to the date of arrest of applicant as 09.11.2020, learned counsel further submitted that alleged occurrence is of the night of 08.11.2020, but FIR is lodged on 09.11.2020. Learned counsel pointed out that in all three accused are arrested. She would further submit that as regards to present applicant is concerned, there was no motive or intention.

4. Questioning the FIR by mother of deceased, learned counsel would submit that it is doubtful whether she was an eye witness. According to learned counsel, alleged incident had taken place at around 10.30 p.m. and informant claims to have seen occurrence in the light of street lamp. Resultantly, she questions informant's claim of seeing the occurrence. Learned counsel pointed out that no TI parade has been conducted. It is also submitted that informant was at home and claims to have learnt from one person about alleged occurrence, but from whom she exactly learnt, is not reflected in the statement nor statement of such informer to her is recorded by police.

5. According to learned counsel, there is allegation of use of one knife. Initially allegations are against non applicant Atul, and then allegations are made against present applicant. Learned counsel pointed out that third accused Durgesh is released on bail by learned trial court. Learned counsel took this Court through the statements of witnesses namely Devidas, Kiran, Sangam and would point out that they are not consistent and are rather contradicting each other. That, different versions are given in statement under Section 161 Cr.P.C. and before learned Magistrate while recording statement under Section 164 Cr.P.C., which are apparently recorded after huge delay. Resultantly, she questions the very veracity of such statement.

6. Apart from above merits, learned counsel laid much stress on long pre-trial incarceration. She would point out that applicant is arrested on 09.11.2020. That, it is learnt that though charge is framed, only plea of present applicant is recorded and he has signed. Whereas, surprisingly signatures of remaining two accused are not obtained and as such, according to her, matter is held up since long for charge and plea itself. Learned counsel also pointed to the copy of *roznama* placed on record and would submit that since May 2023, matter is at the stage of list of witnesses and formal hearing, and since 10.11.2023, matter is shown to be stuck up at the stage of awaiting *muddemal*. Learned counsel submitted that from the roznama itself it is evident that trial is not proceeding at required pace in spite of applicant to be behind bars since more than four years and she also expresses serious apprehension as to whether trial would conclude in current year also. Thus, on the ground of long incarceration, she seeks enlargement on bail on any condition deemed fit by this Court.

7. Learned APP as well as learned counsel for informant both have strongly opposed on the ground that informant mother has seen the occurrence. She has named the applicant. There is reporting about using knife for inflicting injuries on the deceased. Learned APP

pointed out that there are as many as 29 injuries on the person of deceased. Consequently, with such serious allegations, they both oppose instant application.

8. Heard. Perused the papers. As submitted, law has been set into motion by mother of deceased on 09.11.2020 regarding occurrence which took place around 10.30 p.m. on 08.11.2020. Substance of the FIR is that her deceased son Bhushan borrowed Rs.150/- from her to contact Advocate as he was in receipt of externment notice, and left the house around 17.00 hrs. She claims that around 10.30 p.m., someone gave call outside her house and informed her that her son is being beaten near Khadki Chal Rickshaw stand, and therefore she claims to have reached there and further claims to have seen Atul Katkar, present applicant Pratik and one Durgesh @ Papai giving kicks and fist blows to her son. She claims to have seen it in the street light. She further claims that when she went near, then she saw Atul inflicting knife blows on her son and thereafter present applicant snatching knife from him and further he too inflicting blows. Whereas, Durgesh @ Papai allegedly hit with stone. On her above report, Jalgaon City Police Station seems to have registered instant crime. Admittedly, applicant is arrested on the same day i.e. on 09.11.2020.

9. Three grounds pressed into service are that, it is doubtful whether informant has actually seen the incident. Secondly, witnesses are not consistent and are giving contradictory versions as regards to number of persons involved i.e. under Section 161 Cr.P.C. and while giving statement under Section 164 Cr.PC. Thirdly, applicant being behind bars since November 2020 and trial not having yet commenced, applicant is deprived of speedy trial and there is resultantly pre-trial long incarceration.

10. Papers show that, charge sheet is filed in the trial court on 09.01.2021. Apparently, alleged occurrence which took place around 10.00 to 10.30 p.m., is reportedly seen by informant mother in a street light as she herself has narrated to this extent in the FIR. Three persons are initially named for beating her son by kicks and fist blows. Then there are allegations against two persons, including present applicant, for using one knife. Mother claims that she first saw knife being used by Atul and it being subsequently snatched by present applicant and he also allegedly inflicted blows. But, in charge sheet, recovery is shown not at the instance of present applicant but at the instance of Atul. Be it so.

11. The fundamental ground, as stated above, is long incarceration and no prospects of trial at all. Submissions are advanced by learned counsel that, when charge was framed, out of three accused, only her client namely Pratik i.e. present applicant caused signature on the plea of guilt which is recorded after framing and explaining charge. On court query, learned APP could not answer the above unusual process. It is not understood why other co-accused have not yet caused signature on plea after framing of charge.

12. As pointed out from the *roznama* placed on record, it is evident that, in spite of committal of case to the Court of Sessions, since 07.05.2021 till 09.05.2023 i.e. for 2 years, matter has not proceeded beyond the stage of filing list of witnesses. Again, as pointed out, since 10.11.2023, *roznama* shows that matter is shown at the stage of awaiting *muddemal*. Again on court query, learned APP pointed out that charge sheet goes to show that *muddemal* seized in the matter is sent to CA at Nashik way back on 19.11.2020 itself. Still surprisingly it seems that prosecution has not taken pains to seek back *muddemal* or the Analyzer's report for almost last five years. *Roznama* itself shows that till 21.10.2024 i.e. October of last year, same stage as awaiting *muddemal* is reflected in the *roznama*. This is the very sorry state of affairs, more particularly when accused is arrested in

November 2020. Resultantly, even if bail application is opposed on the ground of grave offence to be committed, this Court is constrained to grant bail only as it amounts to pre-trial long incarceration which affects right of speedy trial itself. On such count itself, this Court is inclined to grant bail. Hence, I proceed to pass the following order:

ORDER

- I. The application is allowed.
- II. Applicant Pratik Haridas Nimbalkar be released on bail in connection with Crime No. 214 of 2020 registered at Jalgaon City Police Station, District Jalgaon, on executing Personal Bond of Rs. 15,000/- with one surety in the like amount, on the following conditions;
 - [a] The applicant shall not tamper prosecution evidence.
 - [b] The applicant shall not to enter Jalgaon city till conclusion of trial, except for attending court dates.

[ABHAY S. WAGHWASE, J.]