IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.3241 OF 2025

Ajay Sanjay Shirsath .... Applicant
versus
The State of Maharashtra .... Respondent

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- Mr. Amandeep Singh Bolle, Advocate for Applicant.
- Ms. Manisha R. Tidke, APP for the State/Respondent.

CORAM : DR. NEELA GOKHALE, J.
DATE : 09th DECEMBER, 2025

P.C. :

1. The Applicant seeks his release on bail in connection with FIR No.128/2022 dated 09/04/2022 registered with Madhyavarti Police Station, Thane City, for the offences punishable under sections 394 r/w 34 of the Indian Penal Code. Thereafter, the person injured succumbed to his injuries and hence section 302 of the Indian Penal Code was added to the charge-sheet.

2. It is the story of the prosecution, based on the statement given by the son of the deceased that, the deceased

MANUSHREE NESARIKAR
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was in the habit of going to the public toilet at 05.00 a.m. every day. On the fatal day i.e. 09/04/2022, at around 05.15 a.m., the deceased left home to go to the public toilet. He was carrying a mobile phone belonging to the first informant of OPPO Company-A3S. His own mobile phone was at home. Since he did not return home upto 08.30 a.m., the First informant was worried and therefore he went in search of his father. On the road leading to the toilet, he was informed by two people that around 05.15 a.m., one person walking towards the public toilet, was beaten up by two assailants on a motorcycle and was left on the road in an injured condition. The said person was taken to the hospital, where he was proclaimed as dead. Hence, the FIR was registered. Upon investigation of the matter including on the basis of the footage obtained from the CCTV cameras, the present Applicant and co-accused one Gautam Jha were arrested on 12/04/2022 at about 09.00 pm. The Applicant made an application before this Court by filing Bail Application No.3551 of 2022. By order dated 07/06/2023, since the Court was

not inclined to enlarge the Applicant on bail, the counsel for the Applicant withdrew his Bail Application. This Court granted liberty to the Applicant to seek bail afresh, if the trial did not commence within a period of two years from the date of that order.

3. Today, Mr. Amandeep Singh Bolle, learned counsel counsel appearing for the Applicant, is before the Court with a grievance that despite the order passed by this Court dated 07/06/2023, yet the trial has neither commenced nor concluded. He further submits that the charges are framed in September 2024. However, there is no compliance of section 294 of Cr.P.C. or any further progress in the trial. He thus prayed for the Applicant's release on bail before this Court. Mr. Bolle further submits on merits that, this is a case of false implication. He drew my attention to the submissions of the owner of the motorcycle, who stated that he lent his motorcycle to the accused, including the Applicant and when the co-accused returned the key to him, he found that the co-accused had some injury on his hand, which was bleeding. When the said owner of

the motorcycle asked for explanation, the co-accused told him that they had stabbed a person walking on the road and had seized his mobile phone. Mr. Bolle further submits that the police arrested the Applicant on the statement of the owner of the motorcycle, whereas the said owner stated that the police informed him that the Applicant and his associate were already in police custody. He thus, submits that the Applicant is wrongly roped in the offence. He lays stress on the order dated 07/06/2023 passed by this Court, wherein he was granted liberty to renew his plea for bail after two years. He thus prays that the Applicant be released on bail.

4. Ms. Manisha R. Tidke, learned APP representing the State, per contra, resists the Bail Application. She submits that there is an eyewitness, who identified two accused including the Applicant. Further she also points to the CCTV camera footage, which recorded the entire act committed by the Applicant and the co-accused. She submitted that the offence under section

302 of the Indian Penal Code and sentence prescribed is of life imprisonment. Hence it is not a case of long incarceration. She submitted that the application be rejected.

5. I have heard the counsel for both the parties and perused record with their assistance.

6. Admittedly, after the order dated 07/06/2023 was passed, the only development in the trial is that the charges are framed. There is no further development in the trial. Secondly, there is some merit in the argument of Mr. Bolle that it is unclear as to whether the police arrested the Applicant on the statement of the owner of the motor cycle or it is the other way around. The CCTV camera footage merely gives description of motorcycle and unclear description of the motorcycle's rider. The Applicant has already suffered incarceration of about 3 years 8 months. The trial has not commenced. Considering that there are no antecedents against the Applicant and his role is restricted to riding the motorcycle, while it is the pillion who is

seen to have stabbed the deceased and snatched the mobile phone, I am inclined to enlarge the Applicant on bail and it is ordered as under :

ORDER

(i) The Applicant be enlarged on bail, on executing PR Bond in the sum of Rs.35,000/- with one or two local sureties in the like amount;

(ii) The Applicant shall also attend the Trial Court concerned on each and every date as directed, till the conclusion of the trial, save and except if the Applicant is exempted from appearance by orders of the Trial Court;

(iii) If the Applicant has not deposited his passport, the Applicant shall deposit the same with the concerned Police Station, if any;

(iv) The Applicant shall not tamper or attempt to influence or contact the complainant, witnesses or any person concerned with the case;

(v) The Applicant shall not leave India, without permission of the trial Court;

(vi) The Applicant shall inform his latest place of residence and mobile contact number immediately after being released and / or change of residence or mobile details, if any, from time to time to the Court seized of the matter and to the Investigating Officer of the concerned Police Station;

(vii) The Applicant to co-operate with the conduct of the trial;

(viii) Any infraction of the aforesaid conditions shall entail cancellation of bail;

7. Application is allowed in the above terms and is accordingly disposed of.

8. It is made clear that the observations made herein are *prima facie* and are confined to this Application and the Trial Judge to decide the case on its own merits, uninfluenced by the observations made herein.

(DR. NEELA GOKHALE, J.)