

AGK

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.472 OF 2024

Piyush Priyadarshan Naik	... Applicant
V/s.	
The State of Maharashtra	... Respondent

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Mr. Mahesh Mule with Ms. Nidhi Narwekar i/by Mr. Ankit Takle for the applicant.

Ms. Veera Shinde, APP for the respondent-State.

Mr. Chandrakant Jadhav, ACP, D-East Crime Branch with Ms. Rajashree Balgi, PI, DCB, CID, Unit-7, are present.

CORAM : AMIT BORKAR, J.

DATED : JULY 29, 2025

P.C.:

1. By way of the present bail applications filed under Section 439 of the Code of Criminal Procedure, 1973, the applicant is seeking his release on regular bail in connection with Crime Register No. 89 of 2021 registered with D.C.B./C.I.D. Unit 7, Mumbai Police Station. The said offence is registered for the offences punishable under Sections 302 (murder), 326 (causing grievous hurt by dangerous weapons), 342 (wrongful confinement), 144 (unlawful assembly), 148 (rioting armed with deadly weapon), 149 (offence committed by members of unlawful assembly), 506 (criminal intimidation), 120-B (criminal

conspiracy) read with Section 34 (common intention) of the Indian Penal Code, 1860. In addition, the applicant has also been booked under Sections 37(1)(a) and 135 of the Maharashtra Police Act, 1951 and Sections 3, 4 and 25 of the Arms Act, 1959. The stringent provisions of the Maharashtra Control of Organised Crime Act, 1999 (hereinafter referred to as 'MCOCA') have also been invoked, particularly Sections 3(1)(i), 3(2), and 3(4) thereof.

2. The brief facts of the prosecution case, as can be gathered from the First Information Report and the statements of the witnesses, are as follows: That on 3rd October 2021, the informant, after completing his work for the day, went to a Chinese eatery operated by the deceased, namely Suraj Mehra @ Nepali, at around 7:30 p.m. At that time, the deceased, the complainant, and two of their friends were present at the said eatery. They wrapped up their operations by around 10:00 p.m., and subsequently, the complainant, the deceased, and others including hotel staff cleaned the premises, which continued until around 1:00 a.m. on 4th October 2021.

3. According to the prosecution, at around 12:30 a.m. on 4th October 2021, a phone call was received from one Rahul @ Rahulya Vilas Jadhav to place an order for food. However, since the kitchen of the hotel was closed, the order was declined. Thereafter, at around 2:00 a.m., after settling the daily accounts, the deceased, the complainant and two of their friends left the hotel to go home. While the deceased and the complainant proceeded together along with one of the friends, the friend parted ways on reaching the parking area of Sachin Dhananjay Kulkarni

@ Chingya, and proceeded to his house, while the complainant and the deceased continued walking towards their own respective residences.

4. At about 2:20 a.m., when the complainant and the deceased reached near Komal Yadav Chawl, they were suddenly intercepted by two persons, namely Sachin Dhananjay Kulkarni @ Chingya and Piyush Priyadarshan Naik (one of the present applicant). At that moment, Umesh Bharat Kadam came running with a sword in his hand and tried to assault the deceased. The complainant and the deceased attempted to save themselves from the said attack by grabbing Umesh Bharat Kadam. However, other accused persons, namely Sushil @ Sada @ Jayaram Sadanand Sawant and Rahul @ Rahulya Jadhav, arrived at the spot and launched a further assault using choppers.

5. It is further alleged by the prosecution that during the scuffle, Sushil @ Sada @ Jayaram Sadanand Sawant attacked the complainant with a chopper and dragged him towards an open land and threatened him to leave the area. Out of fear, the complainant moved away. However, when he looked back in search of the deceased, he saw that both Sushil @ Sada @ Jayaram Sadanand Sawant and Rahul @ Rahulya Jadhav were attacking the deceased Suraj Mehra @ Nepali. While trying to escape and defend himself, the deceased reached near Ashtavinayak Dairy, where he fell. Taking advantage of the situation, Umesh Bharat Kadam attacked the deceased with a sword in the abdominal region. Thereafter, Sushil @ Sada and Rahulya Jadhav continued attacking him with deadly weapons like

swords and choppers.

6. The complainant immediately informed one of their friends about the incident and called for help. In the meantime, the police arrived at the scene of offence. The injured Suraj Mehra @ Nepali was taken to Mulund General Hospital for medical assistance. However, despite all efforts, he was declared dead on arrival by the hospital authorities.

7. Shri Mule, learned Advocate appearing for the applicant/accused No.2, submitted that the only allegation levelled against the applicant is that he allegedly restrained the deceased, Suraj Mehra @ Nepali, at the spot of the incident. It is his submission that even this allegation is not supported by credible material. He pointed out that the prosecution is primarily relying on the CCTV footage of the area where the incident took place. However, according to him, in the Test Identification Parade (TI Parade) conducted on 25th February 2022, witness Prakash Mehra merely identified the applicant as a local boy and did not identify him as either an assailant or as someone who obstructed the deceased or the complainant.

8. Learned counsel further submitted that on a careful perusal of the footage from Camera No. 3 installed at Som Medical, the presence of the applicant is not clearly seen. The footage does not show the face of the applicant or of any person obstructing the deceased or the complainant from any angle. He submitted that the prosecution is relying upon a panchnama prepared with the assistance of one Swapnil Gurav to show that the applicant was

present at the scene, but that panchnama is incorrect and unreliable.

9. He submitted that the panchnama dated 2nd April 2024, which according to the prosecution shows that the applicant was conducting a recce (surveillance) of the deceased at around 10:00 p.m. on 3rd October 2021, does not implicate the applicant in any way because the actual incident took place nearly five hours later. The applicant being a resident of the same locality, his mere presence in the area at that hour is not sufficient to draw an inference of involvement in the crime.

10. It was further submitted that the clothes allegedly seized from the applicant do not have any blood stains on them. This, according to the learned Advocate, establishes that the applicant was neither involved in the physical assault nor was he in close proximity when the offence took place. As regards the mobile number allegedly used for communication with co-accused persons, he submitted that the said mobile phone or SIM card has not been recovered from the applicant.

11. Learned counsel also submitted that although the applicant was previously arraigned as an accused in Crime Register No.20 of 2021 for offences under Sections 302, 323, 507, and 34 of the Indian Penal Code, he has already been granted bail in that matter by order dated 24th February 2021. In fact, in the said case, the complainant had even filed an affidavit before the Court stating that he does not wish to proceed with the complaint. Lastly, it was submitted that the applicant has been in custody since 4th October

2021 and in the absence of any direct role in the actual assault, he deserves to be released on regular bail.

12. On the other hand, the learned APP strongly opposed the prayer for bail. It was submitted that the material collected during the course of investigation clearly indicates that the applicant, in furtherance of a criminal conspiracy with co-accused persons, was actively involved in the commission of a heinous offence of murder. According to the prosecution, the applicant, along with co-accused No.1, deliberately restrained the deceased and the complainant, thereby facilitating the coordinated and immediate assault by other co-accused persons, namely accused Nos.3, 4 and 5.

13. The learned APP submitted that the act of restraining the deceased and the complainant formed an integral part of the execution of the criminal conspiracy. The time gap between the restraint caused by the applicant and the subsequent fatal assault was so minimal that it leaves no scope for doubt that the entire sequence of events was meticulously pre-planned and executed jointly by all accused.

14. The learned APP further pointed out that the CCTV footage clearly shows that the other accused were already waiting in ambush near the place of incident, anticipating the arrival of the deceased and the complainant. In support of the applicant's active involvement in the conspiracy, the Call Detail Records (CDR) were referred to, which reflect that between 29th September 2021 and 3rd October 2021, there were 53 telephonic exchanges between

the applicant and the main assailant, Rahul Jadhav.

15. According to the prosecution, the CCTV footage shows the presence of the applicant at the spot and his act of restraining the deceased and the complainant, which immediately led to the fatal assault by the co-accused, thereby prima facie establishing his role in the larger conspiracy. It was further submitted that the applicant has a previous criminal antecedent in the form of Crime Register No.20 of 2021 for serious offences under Sections 307, 323, 507 read with Section 34 of the IPC. The applicant is stated to be a member of an organised criminal gang.

16. In light of the above, the learned APP submitted that there exists a real and imminent possibility that the applicant, if enlarged on bail, may indulge in commission of similar grave offences. Therefore, bar under Section 21(4) of the Maharashtra Control of Organised Crime Act, 1999 squarely applies to the case at hand, and thus the applicant is not entitled to be released on bail. She prayed that the bail application be rejected.

17. I have considered the rival submissions advanced by the learned counsel for the applicant and the learned APP for the State. I have also perused the material on record, including the FIR, charge sheet, statements of witnesses, CCTV footage analysis, panchnamas, call detail records, and the Test Identification Parade proceedings.

18. The applicant is facing prosecution for serious and grave offences, which include the offence of murder punishable under Section 302 of the Indian Penal Code, criminal conspiracy under

Section 120-B of the IPC, and also offences under the stringent provisions of the Maharashtra Control of Organised Crime Act, 1999 (MCOCA). The nature of the allegations levelled against the applicant is such that it strikes at the very root of public order and safety, and reveals involvement in organised and premeditated criminal activity.

19. From the material placed on record by the prosecution, it appears that the offence was not committed on the spur of the moment, but was the result of a well-planned conspiracy hatched by the applicant and other co-accused persons. The sequence of events, as reconstructed from the CCTV footage, CDR, witness statements and panchnamas, prima facie indicates that the applicant played an active role in executing the conspiracy.

20. It is specifically alleged, and prima facie borne out from the evidence, that the applicant, in furtherance of the said criminal conspiracy, had restrained the deceased and the complainant at a strategic point, which facilitated the immediate and violent assault carried out by the other accused persons. The restraining act was not casual or coincidental but was done with a clear intention to immobilize the victim and to create a situation conducive for the assailants to carry out a fatal attack.

21. This act of the applicant cannot be seen in isolation or as a mere presence at the scene. In offences involving conspiracy and organised crime, each act by every accused forms a link in the chain of execution. The participation of the applicant in restraining the deceased, though not the act of direct assault, is an act which

has materially contributed to the commission of the offence and is, therefore, equally culpable in the eyes of law.

22. In such cases, it is not necessary that every conspirator must have wielded the weapon or inflicted blows. The role of each conspirator is to be seen in the broader canvas of the execution of the unlawful design. In cases of pre-planned conspiracy, even the smallest act in furtherance of the common object may attract liability equivalent to the main assailants. Therefore, the role attributed to the applicant is not minor or insignificant, but is an integral part of the entire offence.

23. The submission of the learned counsel for the applicant that the CCTV footage does not show the applicant's face and that his mere presence in the locality does not implicate him, cannot be accepted at this stage. The prosecution has placed reliance on multiple CCTV footages, including one from Som Medical and another showing the sequence of events immediately before and after the incident. These footages, read in conjunction with the statements of witnesses and panchnamas, create a prima facie picture of the applicant being part of a group which intercepted and restrained the deceased, enabling the other accused to execute the murderous assault.

24. The panchnama dated 2nd April 2024, though showing the applicant near the spot about five hours prior to the incident, cannot be seen in isolation. When the applicant's call records are also taken into account, which reflect 53 telephonic communications exchanged with the main assailant Rahul Jadhav

over a short span of five days before the incident, it lends strong prima facie support to the theory of conspiracy and coordination. The conduct of the applicant, viewed collectively, shows that his involvement was not merely peripheral, but part of a larger premeditated plan.

25. The contention that the applicant was not identified as an assailant in the Test Identification Parade by witness Prakash Mehra also cannot be given undue weight at this stage. The identification of the applicant as a local resident by the witness is itself corroborative of his presence and familiarity with the area and the persons involved. Moreover, in conspiracies involving multiple accused and coordinated execution of crime, the exact overt act by each accused may not always be separately visible or identifiable, but the concerted and joint nature of the operation is what assumes legal relevance.

26. The applicant has a criminal antecedent, being previously arraigned in Crime No.20 of 2021 for offences under Sections 307, 323, 507, and 34 IPC. Even though he has been granted bail in that case and the complainant has filed an affidavit of no objection, the said antecedent reflects the applicant's repeated involvement in serious offences. This, when seen in light of the organised manner of the present offence, strengthens the apprehension of his propensity to indulge in similar offences if released on bail.

27. The present case also attracts the bar under Section 21(4) of the MCOC Act, which mandates that bail shall not be granted

unless the Court is satisfied that there are reasonable grounds for believing that the accused is not guilty of such offence and is not likely to commit any offence while on bail. In the present case, the material collected by the investigating agency, including CDRs, CCTV footage, and the role attributed to the applicant in the conspiracy and execution of the offence, does not permit this Court to record such a satisfaction at this stage.

28. The offence in question is of a grave and serious nature, involving the brutal murder of a person in a public area with deadly weapons. The nature of the crime, manner of its commission, and the possibility of tampering with evidence or influencing witnesses, cannot be ruled out if the applicant is released on bail.

29. In light of the totality of circumstances, this Court is of the considered opinion that the applicant does not deserve the relief of bail at this stage. The bar under Section 21(4) of the MCOC Act is attracted, and the material on record shows prima facie involvement of the applicant in a serious organised offence.

30. Hence, the application is liable to be rejected.

31. The Bail Application filed by the applicant under Section 439 of the Code of Criminal Procedure, 1973 stands rejected.

(AMIT BORKAR, J.)