

VRJ

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

BAIL APPLICATION NO.815 OF 2024

VAIBHAV
RAMESH
JADHAV

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Date: 2025.06.12
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Shihvkumar Binder Lodh

... Applicant

V/s.

The State of Maharashtra Alias Navghar
Police Station

... Respondent

Mr. Brijesh S. Yadav and M. S. Almelkar for the
applicant.

Ms. Megha S. Bajoria, APP for the State.

Mr. Sachin Ubale, PSI, Navghar Police Station is
present.

CORAM : AMIT BORKAR, J.

DATED : JUNE 12, 2025

P.C.:

1. This is a bail application preferred under Section 439 of the Code of Criminal Procedure, 1973, by the applicant seeking regular bail in connection with Crime Register No.160 of 2021 registered at Navghar Police Station, Thane, for the offence punishable under Section 302 read with Section 34 of the Indian Penal Code, 1860.

2. The brief facts of the prosecution case are that, on the date of incident, while the Police Sub-Inspector attached to Navghar Police Station was on patrolling duty at about 6:30 a.m., he was informed by one Rohit Thakur that an unknown person was lying

unconscious in front of S.N. College. The said person was immediately shifted to Tembha Hospital, where he was declared dead. Upon investigation, it transpired that four individuals had allegedly assaulted the deceased, suspecting him to be a thief. The alleged assault was carried out using a belt and wooden stick. The applicant is one of the four persons allegedly involved in the said assault. He was arrested on 6th March 2021 and has been in custody since then.

3. The applicant had earlier moved an application for bail before the learned Sessions Judge, which came to be rejected. Hence, the present application is preferred before this Court.

4. The learned Advocate for the applicant submitted that, upon perusal of the statements of witnesses and the CCTV footage panchnama relied upon by the prosecution, it is evident that the CCTV footage does not specifically attribute the act of assault to the present applicant. It is submitted that the prosecution has alleged joint assault by four persons, but has not produced material to show individual overt acts of each of the accused. The learned Advocate pointed out that the applicant has already undergone incarceration of more than four years and three months, and in the absence of a clear role being assigned to him in the commission of the alleged offence, the applicant deserves to be released on bail. It is further submitted that the trial is not likely to conclude in the near future, and continued detention of the applicant amounts to pre-trial punishment.

5. On the other hand, the learned Additional Public Prosecutor

opposed the application. It is submitted that the material collected during investigation clearly indicates that the deceased was subjected to physical assault by all the accused persons jointly, and that the exact role of each of the accused cannot be separately identified at this stage. It is contended that the nature of the offence is grave, as the death has resulted from the alleged assault, and that the applicant, along with co-accused, is involved in the commission of a heinous crime. The learned APP therefore submitted that this is not a fit case for grant of bail and the application deserves to be rejected.

6. I have carefully considered the charge-sheet and the material placed on record by the prosecution, including the CCTV footage panchnama. On prima facie perusal of the CCTV footage, it appears that specific acts of assault are attributed only to accused Nos. 1 and 4. As far as the present applicant (accused No. 3) is concerned, the footage does not depict any clear or specific role attributed to him in the actual assault. Though the prosecution case is that there was a joint assault by all accused persons, the material does not independently establish the applicant's individual participation in the act which directly led to the death of the deceased.

7. Moreover, the applicant has been in custody since 6th March 2021, and has undergone pre-trial incarceration of more than four years and seven months. There is no material placed before the Court to suggest that the applicant has misused liberty in the past or that he poses a threat to the trial or witnesses. The trial has not yet commenced and is likely to take a considerable period for

completion. In such circumstances, continued detention of the applicant would amount to pre-trial punishment, which is impermissible in law. Therefore, in my considered opinion, the applicant has made out a prima facie case for grant of bail.

8. In view of the discussion above, the applicant is entitled to be released on bail.

9. Accordingly, the applicant is directed to be released on bail upon furnishing cash surety of Rs.25,000/- (Rupees Twenty-Five Thousand only) and executing a Personal Recognizance (P.R.) Bond in the like amount, within a period of four weeks from the date of this order, subject to the following conditions:

- a) The applicant shall not tamper with the prosecution evidence or attempt to influence any prosecution witness, directly or indirectly.
- b) The applicant shall remain present before the learned Trial Court on all dates of hearing, unless prevented by a sufficient and justifiable cause.
- c) The applicant shall not leave the territorial jurisdiction of the concerned Trial Court without obtaining prior permission from the said Court.
- d) The applicant shall not commit any offence during the pendency of the trial and shall maintain good conduct.

10. The bail application stands disposed of in the aforesaid terms.

(AMIT BORKAR, J.)