

Shabnoor

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

BAIL APPLICATION NO.2870 OF 2024

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Abhijit Baburao Jadhav

... Applicant

V/s.

State of Maharashtra

... Respondent

Mr. Sachin Thorat a/w Mr. Dhananjay K. Bhosale for applicant.

Ms. Pallavi N. Dabholkar, APP for State – respondent.

Mr. Ashok T. Pathare, PSI Badlapur (W) Police Station Thane City.

CORAM : AMIT BORKAR, J.

DATED : JUNE 9, 2025

P.C.:

1. This is a bail application filed under Section 439 of the Code of Criminal Procedure, 1973 (“Cr.PC.”), by the applicant who is seeking to be released on bail in connection with Crime Register No. 108 of 2020, registered with Badlapur Police Station. The said crime concerns offences punishable under Sections 302 and 201 of the Indian Penal Code, 1860 (“IPC”), which relate to the alleged commission of murder and causing disappearance of evidence respectively.

2. The briefcase of the prosecution is that, on the intervening night of 13th August 2020, one Nilesh Harishchandra Kale, in his initial statement, informed the police that while he was at home

after dinner at around 1:00 a.m., a person named Aditya Shelar approached him and told him that one Rupesh Pawar was lying on the street, and blood was flowing from his body. Rupesh Pawar was then taken to the hospital, where he was declared dead. At that stage, an Accidental Death Report (ADR) came to be registered as A.D.R. No. 31 of 2020 under Section 174 of the Cr.P.C. However, during the course of investigation, based on the subsequent statements of certain witnesses, the police alleged that the applicant had assaulted the deceased with an iron rod, inflicting a blow on the forehead, which allegedly caused the death of the deceased. Accordingly, the case was converted into a criminal case for the offence of murder under Section 302 IPC.

3. The learned Sessions Judge, before whom the applicant had earlier approached for bail, rejected the said application. The Sessions Court, while rejecting the bail, primarily relied upon the presence of one eye-witness who had allegedly seen the incident and observed that, considering the seriousness and gravity of the alleged offence under Section 302 IPC, it would not be appropriate to enlarge the applicant on bail at that stage. Aggrieved by the said order, the applicant has now approached this Court by filing the present application.

4. Learned counsel appearing for the applicant has drawn the attention of this Court to the initial version recorded by the police on 13th August 2020, which was treated as an accidental death and did not point to any foul play or specific accused. The counsel submitted that only after a gap of two days, i.e., on 15th August 2020, certain new statements were recorded, wherein for the first

time allegations were made against the applicant, alleging that he had assaulted the deceased. It was, therefore, argued that the present case appears to be an afterthought and that what was initially treated as a case of accidental death has now been converted into a case of murder under Section 302 IPC, without reliable or cogent basis.

5. On the other hand, learned APP appearing for the State opposed the bail application by pointing out that the incident has been directly witnessed by an independent person, whose statement has been recorded during the investigation. It was further submitted that the applicant has criminal antecedents, with three other criminal cases already registered against him. It was also argued that the statement of the eyewitness has been recorded under Section 164 of the Cr.P.C. before the Magistrate, which lends further support and credibility to the case of the prosecution at this stage.

6. I have carefully perused the entire material placed on record, including the First Information Report (FIR), the charge-sheet, the statements of witnesses, and the postmortem report of the deceased. Upon such consideration, it prima facie appears that the initial statement of one Nilesh Karale, recorded soon after the incident, suggested the possibility that the death may have occurred due to an accident. It is not in dispute that the said statement was treated by the investigating agency as giving rise to an accidental death report under Section 174 of the Cr.P.C. At that stage, the circumstances at the spot—including the presence of bloodstains—were consistent with an accidental fall or injury.

7. It was only subsequently, on 15th August 2020, that the statements of other witnesses came to be recorded, wherein for the first time, the applicant was alleged to have assaulted the deceased with an iron rod. It is noteworthy that there was a gap of two days between the initial ADR and the subsequent version implicating the applicant. The delay in recording the material statements and the change in nature of the allegations raise a doubt, at this stage, as to whether the present applicant was indeed involved in the alleged offence, or whether the case evolved over time as further versions were introduced.

8. Further, the applicant was arrested belatedly on 30th October 2020, i.e., more than two months after the date of incident. He has been in judicial custody since then. The charge-sheet has already been filed, and therefore, the investigation is complete. Despite the passage of significant time since filing of the charge-sheet, it is brought to the notice of the Court that the trial has not yet commenced, and there is no indication from the Sessions Court record that it is likely to begin or conclude in the near future.

9. Thus, the continued incarceration of the applicant, particularly when he has remained in custody for nearly five years without trial, would result in undue prejudice. The right to speedy trial is a fundamental component of Article 21 of the Constitution of India. The Supreme Court has consistently held that undertrials cannot be indefinitely detained when the trial is either unreasonably delayed or not commenced without proper justification. In the facts of this case, I find that prolonged pre-trial

detention, especially when the evidence is already collected and the applicant is not shown to have misused liberty during investigation, would operate harshly and amount to pre-conviction punishment.

10. Having regard to the above circumstances, including (i) the initial doubtful nature of the case, (ii) the late implication of the applicant, (iii) the fact that the applicant is in custody for more than four and a half years, and (iv) the delay in commencement of trial despite filing of charge-sheet, I am of the considered view that the applicant is entitled to be released on bail with appropriate conditions to ensure his presence at the trial and to prevent any misuse of liberty.

11. In view of the above, the following order is passed:

(a) The bail application is allowed.

(b) The applicant, *Abhijit Baburao Jadhav*, shall be released on bail in connection with C.R. No. 108 of 2020 registered with Badlapur Police Station, on his furnishing a personal bond in the sum of ₹50,000/- (Rupees Fifty Thousand only), with one or more solvent sureties in the like amount, to the satisfaction of the Trial Court, subject to the following conditions:

(c) The applicant shall not tamper with the evidence or attempt to influence any witness in any manner.

(d) The applicant shall regularly remain present before the Trial Court on each date of hearing, unless prevented by

sufficient and genuine cause, to be shown to the satisfaction of the Trial Court.

(e) The applicant shall not leave the territorial jurisdiction of the Trial Court without its prior written permission.

(f) The applicant shall not commit any offence or indulge in any criminal activity during the pendency of the trial.

(g) Considering the fact that the applicant has criminal antecedents and in order to ensure fair conduct during trial, the applicant shall not enter the jurisdictional limits of Badlapur Police Station during the pendency of the trial, except for attending Court proceedings, with prior intimation to the concerned police station.

12. The Bail Application stands disposed of accordingly.

(AMIT BORKAR, J.)