

AGK

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

BAIL APPLICATION NO.2876 OF 2024

Vaseem Sattar Meman ... Applicant
V/s.
State of Maharashtra ... Respondent

**WITH
INTERIM APPLICATION NO.2978 OF 2024
IN
BAIL APPLICATION NO.2876 OF 2024**

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Reyan Siraj Khan ... Applicant
In the matter between
Vaseem Sattar Meman ... Applicant
V/s.
State of Maharashtra ... Respondent

Mr. Sandeep Maurya i/by Ms. Simran Vishwakarma
and Ms. Nidhi Giri for the applicant.

Mrs. Mahalakshmi Ganapathy, APP for respondent
No.1-State.

Ms. Ilsa Shaikh for intervenor-applicant in IA.

CORAM : AMIT BORKAR, J.

DATED : JULY 31, 2025

P.C.:

1. By the present application 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. I-403 of 2023, registered with Shil Daighar Police Station. The applicant

is facing prosecution for an offence punishable under Section 302 of the Indian Penal Code, 1860, i.e., for the alleged commission of murder.

2. The brief facts, as emerging from the prosecution record, are that on 19th September 2023, at around 8:21 a.m., Assistant Police Inspector Swati Kashinath Lahane received information from the Thane Control Room about an unconscious man lying near the lake at Phadke Pada. Upon reaching the spot with her police staff, the API found an unknown male person lying injured with a bleeding head wound. One Mobin Mainuddin Choudhary, a passerby, stated that at around 7:15 a.m., while attending to nature's call, he noticed a crowd gathered and saw the injured person lying about 20 feet behind his vehicle. The said person was later identified as Dr. Siraj Ahmad Manjoor Ahmad Khan, a resident of Mumbra, Thane. He was taken to Chhatrapati Shivaji Maharaj Hospital, Kalwa, where he was declared dead. Initially, the police treated the case as an accidental death and registered an ADR.

3. The learned Advocate for the applicant has submitted that the case of the prosecution rests purely on circumstantial evidence. The three main circumstances relied upon by the prosecution are: (i) motive; (ii) last seen theory; and (iii) recovery of bloodstained clothes from the applicant. As regards the alleged motive, it is submitted that the applicant had borrowed an amount of ₹15,000/- from the deceased to carry out insurance formalities for the deceased's car. However, it is contended that such a motive, revolving around a meagre amount, is weak and insufficient to

lead to the extreme act of murder.

4. With respect to the 'last seen' circumstance, the learned Advocate pointed out that the statements of the witnesses, claiming that the applicant was last seen with the deceased, were recorded belatedly, on 2nd October 2023, nearly two weeks after the incident dated 18/19 September 2023. He further submits that FIR came to be registered on 19 September 2023, and the identification of the applicant by the witnesses was based on a news clip telecasted on a YouTube channel at around 9:00 a.m. on the same day. It is submitted that this weakens the credibility of the 'last seen' theory.

5. It is also submitted that there is no clear forensic linkage. Though a bloodstained T-shirt is alleged to have been recovered from the applicant, the colour of the T-shirt is described differently by witnesses (as orange) whereas the recovered shirt is of brick red colour. Moreover, the C.A. report mentions blood group 'A' on the shirt, but the defence submits that this alone is not conclusive. The applicant's Advocate contends that only 4 out of 48 cited witnesses have been examined so far, and the trial is likely to take a long time. The applicant is in custody since his arrest, and his further detention is not warranted. He, therefore, prays for release on regular bail.

6. On the other hand, the learned APP as well as the learned Advocate for the victim's family opposed the bail application. It is submitted that the blood group found on the T-shirt recovered from the applicant matches with that of the deceased (blood group

A). They also pointed out that the applicant has a prior criminal antecedent under Section 380 IPC registered in the same year, which shows his tendency towards criminal acts. They further submitted that three witnesses had seen the deceased boarding an auto-rickshaw, and CCTV footage confirms this fact. It is the prosecution's case that the applicant was the driver of that rickshaw. Additionally, the applicant's own wife, in her statement, has confirmed that the deceased had paid ₹15,000/- to the applicant for arranging insurance work. These facts, when considered together, prima facie point to the applicant's involvement in the commission of the offence. Hence, the prayer for bail is strongly opposed.

7. I have carefully considered the rival submissions made by the learned Advocate for the applicant and the learned APP as well as the learned Advocate for the victim. I have also perused the entire material on record, including the case diary, statements of witnesses, recovery panchanamas, and forensic report.

8. It is not in dispute that the entire case of the prosecution is based on circumstantial evidence. The three circumstances relied upon by the prosecution are: (i) the alleged motive of borrowing ₹15,000/-, (ii) last seen evidence, and (iii) recovery of a bloodstained T-shirt allegedly worn by the applicant.

9. As far as the alleged motive is concerned, the prosecution claims that the applicant had borrowed ₹15,000/- from the deceased for the purpose of getting the deceased's Maruti car insured. Even assuming this to be correct, the said amount is

relatively small, and by itself, does not appear to be of such gravity as would compel a person to commit a heinous offence like murder. In various decisions, the Supreme Court has held that motive, though relevant, cannot by itself establish guilt, especially in the absence of other convincing links in the chain of circumstances.

10. Regarding the last seen theory, the prosecution relies upon statements recorded belatedly on 2nd October 2023, which is more than 10 days after the incident said to have occurred on the intervening night of 18th and 19th September 2023. Such delay in recording crucial statements creates a cloud of doubt about their reliability. Moreover, the identification of the applicant by witnesses through a news clip uploaded on a YouTube channel at 9:00 a.m. on 19 September 2023 also raises concerns about suggestiveness and lacks the rigour of a proper Test Identification Parade. The evidentiary value of such identification is, therefore, considerably weakened.

11. As regards the recovery of the T-shirt, the prosecution contends that it bore bloodstains of group A, which matches the blood group of the deceased. However, it is pointed out by the defence that the colour of the T-shirt described by the witnesses as 'orange' does not tally with the 'brick-coloured' T-shirt actually recovered. This creates doubt about the correctness of the recovery. Furthermore, the forensic report does not link the blood on the T-shirt directly with the deceased through DNA profiling; it only states the blood group, which, though a relevant circumstance, cannot be held conclusive.

12. The applicant is in custody since his arrest and has no other serious antecedents except one offence under Section 380 IPC in the same year. In the present case, out of 48 witnesses cited by the prosecution, only 4 witnesses have been examined so far. The pace of the trial appears to be slow, and it is likely to take considerable time for its conclusion. Prolonged pre-trial incarceration of an undertrial, especially in a case based on circumstantial evidence with doubtful links, would not be justified.

13. It is well-settled that at the stage of consideration of bail, the Court is not required to go into the detailed appreciation of evidence or to examine whether the circumstances are fully proved. The Court is only required to see whether a prima facie case is made out and whether the applicant, if released on bail, would misuse the liberty or tamper with the evidence.

14. There is no material on record to show that the applicant may flee from justice or attempt to influence the witnesses. The applicant can be released on bail by imposing appropriate stringent conditions to ensure his presence during the trial and prevent any misuse of liberty.

15. Considering the totality of the facts, the doubtful nature of the 'last seen' evidence, the weak motive, the inconclusive recovery, and the long period of pre-trial incarceration that may follow if bail is denied, I am of the opinion that the applicant deserves to be released on bail pending trial.

16. Hence, following order is passed:

- i) The bail application is allowed;

ii) The applicant is directed to be released on regular bail in connection with Crime Register No.403 of 2023 registered with Shil-Daighar Police Station for offences under Section 302 of the IPC, upon furnishing a personal bond of Rs.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:

(a) The applicant shall not tamper with evidence, or directly or indirectly contact, influence, threaten, or intimidate any witness, particularly family members of the deceased.

(b) The applicant shall report to the Shil-Daighar Police Station once in a month, specifically on the 1st Monday of each month, between 10:00 a.m. and 12:00 noon, until further orders.

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

(d) The applicant shall not enter the jurisdiction of Shil-Daighar Police Station, except for marking presence, during the trial;

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

(f) The applicant shall, at the time of furnishing surety, provide his current residential address and mobile number to the Investigating Officer as well as the Trial Court, and shall

inform the Court in writing of any change in residence or contact details during the pendency of the case.

(g) In case of any breach of the conditions mentioned above, the prosecution shall be at liberty to move for cancellation of bail.

17. The bail application is allowed and disposed of.

18. In view of disposal of the bail application, interim application also stands disposed of.

.(AMIT BORKAR, J.)