

AGK

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

BAIL APPLICATION NO.3039 OF 2024

Nishant @ Bala Hiranman Sathe	... Applicant
V/s.	
The State of Maharashtra	... Respondent

ATUL
GANESH
KULKARNI
Digitally signed by
ATUL GANESH
KULKARNI
Date: 2025.08.26
14:19:36 +0530

Mr. D.S. Pagare for the applicant.

Ms. Supriya Kak, APP for the respondent-State.

Mr. Ashish Pawar, PSI, Ulhasnagar Police Station, is present.

CORAM : AMIT BORKAR, J.

DATED : AUGUST 25, 2025

P.C.:

1. By the instant bail application filed under Section 439 of the Code of Criminal Procedure, 1973 (hereinafter referred to as "Cr.P.C."), the applicant is seeking his release on regular bail in connection with Crime Register No.132 of 2022 registered with Ulhasnagar Police Station for offences punishable under Sections 302, 303, 323, 504 read with Section 34 of the Indian Penal Code, 1860 (hereinafter referred to as "IPC").

2. The case of the prosecution, in brief, is that on 18th March 2022, while the deceased was travelling from Varapgaon to Ambernath at about 2.15 p.m., he boarded an autorickshaw. Near Datta Temple, Rupraj @ Bhai Patil and Nishant @ Bala Sathe, who were standing at the spot, stopped the autorickshaw and boarded the same along with the complainant. It is alleged that both of

them started demanding a sum of Rs.100/- from the autorickshaw driver for consuming liquor. The autorickshaw was stopped, and at that point, the complainant got down. Both the accused also alighted from the autorickshaw and demanded money from the complainant. Upon refusal, they allegedly assaulted him with fist blows and by using a cement block, causing serious injuries. The victim succumbed to the injuries during the course of treatment.

3. Learned counsel for the applicant submitted that the applicant has been falsely implicated in the present case and he has no connection whatsoever with the alleged crime. It is urged that there is an unexplained delay of almost 24 hours in lodging the First Information Report, which creates a doubt about the veracity of the prosecution version. It is further contended that no specific role has been attributed to the applicant in the FIR. The applicant came to be arrested on 21st March 2022, and thereafter, investigation has been completed and charge-sheet has been filed. Learned counsel also pointed out that there are material inconsistencies in the statements of witnesses recorded under Section 161 of the Cr.P.C. and their subsequent statements recorded under Section 164 of the Cr.P.C. It is further urged that the applicant has no past criminal antecedents and the trial has not yet commenced. Considering that the applicant has been in custody for more than two years, it is prayed that he be released on bail.

4. Per contra, the learned APP vehemently opposed the bail application. It is submitted that the allegations against the applicant are grave and serious in nature. The FIR as well as the

statements of witnesses attribute to the applicant a specific role in the assault upon the deceased, particularly the act of striking with a cement block, which caused a hematocele under the left side of the scalp, as revealed in the medical record. It is contended that four prosecution witnesses, in their statements under Section 161 as well as under Section 164 of the Cr.P.C., have consistently narrated the role of the applicant in the commission of the offence. Thus, the argument of inconsistency sought to be projected by the defence has no merit. Considering the gravity of the offence, punishable with death or imprisonment for life, and the possibility of influencing witnesses if released, the applicant does not deserve to be enlarged on bail. Accordingly, the learned APP prayed for rejection of the application.

5. I have considered the submissions advanced on behalf of the applicant and the learned APP for the State. I have also perused the papers of investigation made available for my consideration.

6. The defence has argued that there is a delay of 24 hours in lodging the FIR. But the law is clear that a short delay in lodging the FIR, especially in cases of serious offences like murder, does not by itself make the prosecution story doubtful. In this case, the complainant himself was assaulted and had also seen the fatal attack. The shock of the incident and the time taken in giving medical treatment to the victim explain why the FIR was not lodged immediately. Therefore, this delay of one day cannot weaken the case of the prosecution at this stage.

7. Coming to the role of the applicant, the statements of witnesses recorded under Sections 161 and 164 of the Cr.P.C. clearly point out that the applicant directly assaulted the deceased, first with fists and then by hitting him with a cement block. This version is supported by the medical evidence. The post-mortem report shows a hematocele beneath the scalp, which matches with what the witnesses have said. The defence has tried to show small inconsistencies in the witnesses' statements, but such minor differences are natural and cannot be treated as serious contradictions. As the law says, such small variations are common and will be tested properly during the trial.

8. The argument that the applicant has no criminal antecedents and that the trial may take time has also been looked into. However, considering the seriousness of the offence and the way it was carried out, these grounds cannot work in favour of the applicant.

9. While deciding bail, the Court has to consider not only the right to liberty of the accused but also the larger interest of society, especially in heinous crimes. The seriousness of the offence and its impact on society are very important factors while considering bail.

10. The settled legal position is that, for deciding bail, the Court must take into account factors such as the nature and seriousness of the accusation, the punishment prescribed if the accused is found guilty, whether there is prima facie evidence showing his involvement, and whether there is a possibility of tampering with

witnesses.

11. It is true that personal liberty is a fundamental right under Article 21 of the Constitution of India. But this liberty is not absolute. It has to be balanced against the interest of society, the need to keep public confidence in the justice system, and the rights of victims. In serious crimes like murder, the liberty of the accused has to give way to the larger interest of society, at least until the trial decides his guilt or innocence.

12. In the present case, applying these settled principles, the prima facie evidence shows that the applicant played an active role in the assault which led to the death of the victim. Several eye-witnesses have consistently spoken about his role. The nature of the assault, the weapon used, and the medical report together make out a strong case against him at this stage. If released, there is also a real possibility that the applicant may influence witnesses. Considering the gravity of the charge under Section 302 IPC, which carries punishment of death or life imprisonment, the applicant does not deserve the discretionary relief of bail.

13. Hence, the Bail Application is rejected.

14. It is clarified that the observations made herein are only for the purpose of deciding this bail application. The trial Court shall decide the case strictly on the basis of evidence led before it, uninfluenced by any of the observations made in this order.

(AMIT BORKAR, J.)