

Shabnoor

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

BAIL APPLICATION NO.3674 OF 2024

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Rahulkumar Arvindkumar Pathak ... Applicant
V/s.
State of Maharashtra ... Respondent

**WITH
BAIL APPLICATION NO.4929 OF 2024**

Santosh Mangru Yadav ... Applicant
V/s.
State of Maharashtra ... Respondent

Mr. Raju Suryawanshi, for the applicant in both BAs.

Mr. Prasanna P. Malshe, APP for the State – respondent
in BA/3674/2024.

Ms. Pallavi N. Dabholkar, APP for the State –
respondent in BA/4929/2024.

Mr. Abhijit Patil, API Manpada Police Station,
Dombivali, Thane.

CORAM : AMIT BORKAR, J.

DATED : JUNE 24, 2025

P.C.:

1. These are bail applications filed under Section 439 of the Code of Criminal Procedure, 1973, by the applicants – Santosh and Rahul – seeking their release in connection with Crime Register No. 419 of 2024, registered with Manpada Police Station, District Thane. The applicants have been arrested for offences punishable under Sections 302 (murder), 307 (attempt to murder), 341 (wrongful restraint), 338 (causing grievous hurt by act

endangering life), 323 (voluntarily causing hurt), 504 (intentional insult) read with Section 34 (common intention) of the Indian Penal Code, 1860. Apart from this, Sections 37(1) and 135 of the Maharashtra Police Act have also been invoked.

2. As per the case of the prosecution, the incident took place on 18th March 2024. There was a quarrel between the applicants and others including the deceased. A report was lodged by one of the witnesses after the incident. It is alleged that applicant Santosh, along with one Yogesh, took a sharp-edged weapon from his Activa bike with an intention to kill the deceased. When the deceased started running away, Santosh, Rahul, and Yogesh chased him. On the next day, i.e. 19 March 2024, at around 2:24 a.m., the complainant informed his uncle that Yogesh had attacked Yash with a knife near Swastik building. When Yash's brother Jigar tried to intervene, Yogesh also attacked him on the neck and stomach with a knife. It is the case of the prosecution that both Santosh and Rahul were present at the spot when the assault took place. Applicant Rahul was arrested on 28 March 2024 and applicant Santosh was arrested on 27 March 2024. Their bail applications filed before the Sessions Court were rejected, and hence they have approached this Court seeking bail.

3. Learned Advocate for the applicants submitted that the main role of assault is attributed only to co-accused Yogesh. As per the material relied upon by the prosecution, especially the statements of injured eyewitnesses, it is Yogesh who assaulted both the deceased and the injured witnesses with a knife. The role of the applicants Rahul and Santosh is limited only to the act of chasing

the deceased. There is no allegation that they used any weapon or caused any actual injury. It is further submitted that the applicants are in custody since more than one year and trial may take considerable time. Therefore, it is prayed that the applicants may be released on bail as they have made out a prima facie case for bail.

4. On the other hand, learned APP strongly opposed the bail applications. It is argued that the statements of eyewitnesses clearly state that both the applicants were actively chasing the deceased with an intention to cause harm. Their presence along with Yogesh at the time of the incident and the act of chasing the deceased shows that they shared a common intention in the commission of the offence. Therefore, it is submitted that this is not a fit case for granting bail at this stage.

5. Upon careful consideration of the allegations made in the FIR, the charge-sheet, and the statements of injured eyewitnesses, it is evident that the role of actual assault by means of a sharp-edged weapon is specifically attributed to the co-accused Yogesh. The statements of the prosecution witnesses indicate that it was Yogesh who attacked both the deceased Yash and the injured witness Jigar with a knife. There is no direct allegation that either of the applicants—Santosh or Rahul—was armed at the time of the incident or that they inflicted any injury upon the deceased or the injured witnesses.

6. It is also to be noted that while both applicants are alleged to have chased the deceased along with Yogesh on the night of 18

March 2024, no overt act or individual assault is attributed to them in the medical or ocular evidence. Mere presence at the spot or participation in the chase, without any further act of assault or use of weapon, may not be sufficient at this stage to establish their individual complicity in the offence of murder or attempt to murder, especially when the actual act of causing fatal injury is attributed to a specific person, i.e., co-accused Yogesh.

7. The applicants are in custody since March 2024 and the trial is yet to commence. Charge-sheet has been filed, and there is no material placed before the Court to suggest that the applicants may tamper with evidence or threaten witnesses if released on bail. The allegations against them appear to rest mainly on the theory of common intention, which will have to be tested at the stage of trial based on proper evidence.

8. In light of the above circumstances, particularly the absence of any direct role in the assault and the fact that the principal act of violence is attributed to co-accused Yogesh, this Court is of the opinion that the applicants deserve to be released on bail, subject to appropriate conditions.

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

(a) The Bail Application is allowed.

(b) The applicants shall be released on bail in connection with Crime Register No.419 of 2024 registered with Manpada Police Station, District Thane, on each of them executing a Personal Bond of ₹25,000/- (Rupees Twenty-

Five Thousand only) along with one or more solvent sureties in the like amount, to the satisfaction of the learned Trial Court, subject to the following conditions:

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

(d) The applicants shall report to the Manpada Police Station, District Thane on the first Monday of every month between 10.00 a.m. and 12.00 noon, until further orders.

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

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

(g) The applicants 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.

10. The Bail Applications are accordingly disposed of in above terms.

(AMIT BORKAR, J.)