

AGK

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

BAIL APPLICATION NO.3731 OF 2024

Ajit Manohar Rathod ... Applicant
V/s.
The State of Maharashtra ... Respondent

**WITH
BAIL APPLICATION NO.1502 OF 2025**

Chandrashekhar Tukaram Biradar
Balbhim Tukaram Biradar ... Applicants
V/s.
The State of Maharashtra ... Respondent

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Mr. Nitin Gaware Patil with Mr. Shantanu Kolhe i/by
Mr. Dhanaji S. Kudle for the applicant in
BA/3731/2024.

Mr. Amol M. Thombre with Mr. Vishal Sarode for the
applicant in BA/1502/2025.

Mrs. Rajashree V. Newton, APP for the respondent-
State in both the BAs.

Mr. S.B. Baravkar, PSI, Shivaji Nagar Police Station,
Ambernath (East), is present.

CORAM : AMIT BORKAR, J.

DATED : JULY 18, 2025

P.C.:

1. By way of the present application filed under Section 439 of the Code of Criminal Procedure, 1973 (hereinafter referred to as "Cr.P.C."), the applicants seek their release on regular bail in connection with Crime Register No. 237 of 2024 registered at

Shivaji Nagar Police Station, Ambernath (East), for an offence punishable under Section 302 of the Indian Penal Code, 1860 (hereinafter referred to as “IPC”).

2. As per the case of the prosecution, one Sirajoddin Salauddin Shaik informed the police about the incident on 17th February 2024 at around 8:26 a.m. Initially, an Accidental Death Report (A.D.R.) bearing No. 13 of 2024 was registered. However, during the course of investigation, an inquest panchnama was drawn and postmortem was conducted on the deceased persons. The postmortem report revealed that the cause of death was due to excessive blood loss and injuries to vital organs resulting from external trauma. Based on these findings, the police registered an FIR bearing No. 237 of 2024 under Section 302 of the IPC against unknown persons.

3. Learned Advocate appearing for the applicants has submitted that the specific role attributed to the present applicants is that of assaulting the deceased persons with wooden bamboo sticks. It is submitted that the background of the incident is that the deceased persons were allegedly caught stealing in the locality, and were apprehended by members of the public, following which a mob assault took place. It is submitted that the assault was not carried out solely by the applicants but by a larger mob.

4. It is further pointed out that the CCTV footage shows that apart from the applicants, two other individuals were also seen approaching the spot of incident with similar wooden sticks, however, those individuals have not been made accused in the

present case. Moreover, the statements of eye-witnesses do not single out the applicants, but refer to a collective assault by a group of persons.

5. It is further contended that the injuries noted in the postmortem report are in the nature of contusions and are located on the leg, back, abdomen and hand. It is emphasized that there are no incised wounds or fractures, nor are there injuries on sensitive parts such as the head or neck. The cause of death, as per the postmortem, is due to multiple injuries and resultant blood loss.

6. Learned counsel further submitted that one of the applicants, namely Ajit, even offered water to one of the deceased after the incident, which indicates absence of intention to cause death. It is also submitted that the applicants have no prior criminal record and that they have been in custody since 18th February 2024. Charges are yet to be framed, and the prosecution has cited as many as 31 witnesses, due to which the trial is unlikely to conclude in the near future. Hence, it is urged that continued incarceration of the applicants is not justified and they may be released on bail with appropriate conditions.

7. On the other hand, the learned APP has opposed the bail applications. It is submitted that the statements of eye-witnesses are consistent and they attribute the assault to the applicants and other persons. It is contended that the medical evidence corroborates the ocular version. The learned APP further brought to the notice of the Court that applicant Ajit, on the very next day

after the incident, contacted a witness and tried to get the CCTV footage destroyed, which amounts to tampering with evidence.

8. It is further argued by the learned APP that the nature of injuries inflicted upon the deceased persons was such that, in the ordinary course of nature, they were sufficient to cause death. It is, therefore, submitted that the applicants had knowledge that their acts were likely to cause death and, thus, the offence would squarely fall within the four corners of Section 300 of the IPC. The learned APP, therefore, submits that the gravity of the offence, coupled with the conduct of the applicants and the possibility of tampering with evidence, disentitles the applicants from grant of bail.

9. I have carefully considered the submissions advanced by the learned counsel for the applicants and the learned APP for the State. I have also perused the material placed on record, including the FIR, statements of eye-witnesses, CCTV footage, inquest panchnama, and the postmortem report.

10. It is not in dispute that the incident occurred in a public place and involved a mob assault. The prosecution case itself suggests that the deceased persons were allegedly involved in theft and were apprehended by local residents, following which the assault took place. The applicants are stated to have used wooden bamboo sticks in the assault. The nature of injuries, as per the postmortem report, is described as contusions and blunt injuries, located on the limbs and torso, and not on the head or neck. Though the cumulative effect of injuries led to the unfortunate

death, it is prima facie doubtful whether the applicants acted with the intention of causing death or such bodily injury as is likely to cause death.

11. The statements of eye-witnesses refer to a collective assault by several persons. The prosecution has not been able to explain why similarly situated individuals seen in the CCTV footage carrying sticks towards the spot have not been made accused.

12. Moreover, the act of applicant–Ajit in offering water to the deceased post the incident, though not conclusive, is a relevant circumstance pointing towards absence of mens rea to commit murder. The applicants do not have any criminal antecedents and have been behind bars since 18th February 2024. The charge-sheet appears to be filed, and charges are yet to be framed. The prosecution has cited 31 witnesses, and hence, the trial is unlikely to conclude in the near future.

13. As regards the allegation of applicant Ajit attempting to tamper with evidence by contacting a witness for destruction of CCTV footage, the same would be a matter of trial and needs to be established by cogent evidence. At this stage, the possibility of tampering can be addressed by imposing strict conditions.

14. In view of the totality of circumstances, including the role attributed, the nature of injuries, the progress of the investigation, period of custody, and the likelihood of delayed trial, I am of the opinion that continued incarceration of the applicants is not warranted. The applicants can be released on bail with stringent conditions to ensure their presence during trial and to prevent any

attempt to influence witnesses.

15. Hence, following order is passed:

- i) The bail application is allowed;
- ii) Both the applicants are directed to be released on regular bail in connection with Crime Register No.237 of 2024 registered with Shivaji Nagar Police Station, Ambarnath (East) for offences punishable under Section 302 of the IPC, upon furnishing a personal bond of Rs.25,000/- (Rupees Twenty Five Thousand Only) each, with one or more solvent sureties in the like amount, to the satisfaction of the Trial Court, subject to the following conditions:
 - a) The applicants shall report the Shivaji Nagar Police Station, Ambarnath (East) on first Monday between every three months between 10.00 a.m. to 12.00 noon, until further orders.
 - b) The applicants shall not tamper with the evidence or attempt to influence any witness.
 - c) The applicants shall appear before the Trial Court on every date of hearing unless prevented by sufficient cause.
 - d) The applicants shall not leave the territorial jurisdiction of the Trial Court without prior permission.
 - e) The applicants shall not indulge in any criminal activity during the pendency of the trial.

f) Any breach of these conditions shall result in the prosecution moving for cancellation of bail before the Trial Court.

16. Both the bail application are allowed and disposed of.

(AMIT BORKAR, J.)