

VRJ

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.3974 OF 2024

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Balu Vishnu Kachara

... Applicant

V/s.

The State of Maharashtra

... Respondent

Mr. Tapan Thatte, a/w Zahir Mulla i/b Mr. M. S. Mulla
for the Applicant.

Mrs. Shilpa G. Talhar, APP for the State – respondent.

M. H. Choudhary, PSI, Gholwad Police Station is
present.

CORAM : AMIT BORKAR, J.

DATED : AUGUST 12, 2025

P.C.:

1. The present bail application is filed by the applicant under Section 439 of the Code of Criminal Procedure, 1973, seeking his release on regular bail in connection with Crime Register No. 12 of 2021 registered at Gholwad Police Station, District Palghar. The applicant has been booked for serious offences punishable under Sections 395, 397, 307, 353, 332, 333, 326, 341, 427, 120-B of the Indian Penal Code, 1860, along with Section 65(a)(e) of the Maharashtra Prohibition Act.

2. The prosecution case, in brief, is that on 26 March 2021, the police received specific secret information that the present applicant–accused, along with his associates, was engaged in

smuggling foreign liquor from the Union Territory of Daman into the State of Maharashtra. Acting upon this information, the police laid a trap by strategically deploying their team at various secret locations to intercept the smugglers. During the surveillance operation, the police intercepted a vehicle bearing registration no. GJ-05-JS-6580, which was allegedly being used for transporting illicit liquor.

3. After the interception, the said vehicle was taken into police custody. While arrangements were being made to tow the vehicle to the police station by crane and additional reinforcement, accused No. 2 allegedly made a phone call. Soon thereafter, the present applicant–accused No. 1, along with a group of 10 to 15 persons, is stated to have arrived at the spot in several vehicles. They were allegedly armed with sticks, tube lights, and other weapons. It is the prosecution’s case that the applicant and his associates demanded that the police release the seized vehicle. When the police refused, they allegedly assaulted the officers with the intention of causing their death.

4. As a result of this assault, several police personnel sustained injuries, and damage was also caused to police vehicles. It is further alleged that the applicant and his associates forcibly took away the intercepted vehicle carrying the smuggled liquor. Subsequently, after completion of the investigation, a charge-sheet came to be filed against the applicant.

5. Learned counsel appearing for the applicant drew my attention to the order of the Co-ordinate Bench of this Court in

Bail Application No. 436 of 2023, wherein the co-accused Yogesh was granted bail. He submits that, according to the prosecution case itself, the role attributed to the co-accused Yogesh is of having actually assaulted the police officials, whereas the role attributed to the applicant is that of being the leader of the gang. It is further submitted that although the applicant is said to have absconded for about two months, his criminal antecedents are similar to those of the co-accused who has already been released on bail.

6. He further pointed out that the applicant has been in custody since 10 May 2021, and the prosecution has cited as many as 78 witnesses in the case. Considering the number of witnesses, it is unlikely that the trial will conclude in the near future. Therefore, on the ground of parity and prolonged incarceration, he prays that the applicant be released on regular bail.

7. On the other hand, the learned Additional Public Prosecutor vehemently opposed the bail application. It is her contention that the applicant is not just another member of the gang but is the mastermind of the entire operation and was the one who instigated the co-accused to commit the offence. She submits that the role of the applicant cannot be equated with that of the released co-accused Yogesh, as the applicant is the leader and head of the gang involved in the smuggling of foreign liquor.

8. It is further pointed out that after the incident, the applicant absconded and was ultimately arrested from another state, showing his intention to evade the legal process. Considering the gravity of the offence, the manner in which it was committed, and

the applicant's active role, she prays that the present application be rejected.

9. I have considered the submissions made by the learned counsel for the applicant and the learned APP for the State. I have also gone through the FIR, charge-sheet, and the order of the Co-ordinate Bench granting bail to co-accused Yogesh.

10. The allegations in the present case are undoubtedly serious. It is alleged that the applicant, along with other accused persons, assaulted police officials and forcibly took away the seized vehicle carrying illicit liquor. However, the prosecution case also shows that the main act of assault on the police was carried out by other co-accused, and the applicant's role, though described as the leader, does not indicate that he personally inflicted injuries on the police officials.

11. The co-accused Yogesh, who is specifically alleged to have actually assaulted the police officers during the incident, has already been released on bail by the Co-ordinate Bench of this Court. On a plain comparison of the allegations, the role attributed to the present applicant does not appear to be graver than that of the said co-accused.

12. It is a settled principle of criminal jurisprudence that when a co-accused, whose role is similar or more serious, has been granted bail, the other accused having a lesser or equal role should ordinarily be extended the same benefit. This principle, commonly referred to as the "principle of parity," ensures fairness and uniformity in the exercise of judicial discretion. The Court should

ordinarily apply parity unless there exist exceptional circumstances justifying a departure.

13. In the present case, the antecedents of the applicant are similar to those of the co-accused who has already been enlarged on bail. The prosecution has not brought on record any specific material to indicate that the release of the applicant on bail would either cause prejudice to the ongoing trial or result in interference with the course of justice. There is also no tangible material to show that, if released, the applicant would tamper with prosecution evidence or influence witnesses.

14. In such circumstances, and in the absence of any distinguishing factor to deny bail when the co-accused has been granted the same relief, the principle of parity squarely applies in favour of the applicant. This, coupled with the fact that the applicant has been in custody for a considerable period and the trial is not likely to conclude in the immediate future, persuades me to hold that the applicant deserves to be released on bail, subject to suitable conditions.

15. The applicant has been in custody since 10 May 2021. The prosecution has cited as many as 78 witnesses, and the trial is unlikely to conclude in the near future. The right to speedy trial is a facet of Article 21 of the Constitution of India, and prolonged pre-trial incarceration without early completion of trial militates against that guarantee.

16. The apprehension of the prosecution that the applicant may abscond or influence witnesses can be addressed by imposing

stringent conditions, such as reporting to the police station periodically and refraining from contacting prosecution witnesses.

17. In view of the above facts, the principle of parity, prolonged incarceration, and the stage of trial, I am of the opinion that the applicant has made out a case for grant of bail, subject to appropriate conditions.

: O R D E R :

(i) The application is allowed.

(ii) The applicant – Balu Vishnu Kachara – accused in connection with Crime No. 12 of 2021 registered with Gholwad Police Station for offences punishable under Sections 395, 397, 307, 353, 332, 333, 326, 341, 427, 120-B of the Indian Penal Code, 1860, and Section 65(a)(e) of the Maharashtra Prohibition Act, be released on bail on his executing 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.

(iii) The applicant shall not directly or indirectly make any inducement, threat, or promise to any person acquainted with the facts of the case, so as to dissuade them from disclosing such facts to the Court or to any police officer.

(iv) The applicant shall attend the concerned police station on the first Monday of every month between 10:00 a.m. and 12:00 noon till conclusion of trial.

(v) The applicant shall furnish his permanent residential

address and contact number to the Investigating Officer and the trial Court and shall not change the same without prior intimation.

(vi) The applicant shall not leave the State of Maharashtra without prior permission of the trial Court.

(vii) Any violation of the above conditions shall entail cancellation of bail.

(AMIT BORKAR, J.)