

VRJ

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

BAIL APPLICATION NO.5071 OF 2024

Roshan Shivnath Sahani	... Applicant
V/s.	
The State of Maharashtra	... Respondent

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Mr. Mohammed U. Kazi with Ms. Sonia Santis for the applicant.

Ms. Megha S. Bajoria, APP for the State.

Mr. Dattatray Y. Jadhav, API, Ambernath Police Station is present.

CORAM : AMIT BORKAR, J.

DATED : AUGUST 14, 2025

P.C.:

1. The present bail application has been filed by the applicant under Section 439 of the Code of Criminal Procedure, 1973, seeking his release on regular bail in connection with Crime No. 414 of 2022 registered with Ambernath Police Station. The said crime is for offences punishable under Sections 302 and 201 of the Indian Penal Code, 1860.

2. As per the prosecution case, on the day of the incident, a corpse was noticed floating in a pond near Javasai, Ambernath (W). The informant, upon seeing the dead body, immediately informed the police control room on emergency number 100. Soon thereafter, the police reached the spot and, with the assistance of

the fire brigade personnel, recovered the dead body from the water. The body was found packed inside a gunny bag, with heavy stones tied to it using a cable wire, apparently to ensure that it remained submerged. On closer examination, the deceased was identified as one Vishal Sarvajeet Rajbhar. At that stage, the FIR was registered against unknown persons.

3. The learned advocate appearing for the applicant submitted that the role attributed to the applicant in the charge sheet is limited to acts committed after the murder had already taken place. According to him, the material on record, even if accepted at its face value, would prima facie show the involvement of the applicant under Section 201 of the Indian Penal Code, relating to causing disappearance of evidence of an offence, rather than under Section 302 IPC. It is further submitted that the maximum punishment for the alleged role under Section 201 IPC is comparatively lesser, and the applicant has already been in custody for about three years. It is urged that further detention is not warranted, and therefore, the applicant deserves to be enlarged on bail.

4. On the other hand, the learned APP opposed the application, contending that the role of the applicant is not merely post-offence. The prosecution material indicates that the applicant was keeping watch in the surrounding area while the main offence of murder was being committed, and that he was fully aware of its commission. It is further alleged that the applicant actively assisted in disposing of the body and thereby destroying crucial evidence. The learned APP, therefore, submitted that the applicant's conduct

demonstrates conscious participation in the offence and prayed that the bail application be rejected.

5. I have considered the submissions of the learned advocate for the applicant and the learned APP for the State. I have also perused the material placed on record, including the FIR, charge sheet, and statements of witnesses.

6. From the material on record, it appears that the direct role of committing the offence of murder under Section 302 IPC is not attributed to the present applicant. The prosecution case, even if accepted at this stage, shows that the applicant's alleged involvement began after the act of killing had already taken place. His alleged role, as gathered from the charge sheet, relates to assisting in the disposal of the dead body and thereby causing the disappearance of evidence, which attracts Section 201 IPC.

7. It is further to be noted that the applicant has been in custody for almost three years. The investigation is complete, the charge sheet has been filed, and the trial is yet to commence. In these circumstances, the possibility of the applicant tampering with the evidence or influencing witnesses can be safeguarded by imposing appropriate conditions.

8. While the allegations are serious in nature, the principle that 'bail is the rule and jail is the exception' must be kept in mind, particularly where the applicant's role does not prima facie appear to be of the principal offender and prolonged pre-trial incarceration would result in undue hardship. The offence under Section 201 IPC carries a lesser sentence as compared to Section

302 IPC, and continued detention would not serve the ends of justice at this stage.

9. Considering the nature of the allegations against the applicant, the period of custody already undergone, and the stage of trial, I am of the opinion that the applicant can be released on bail with strict conditions to ensure his presence and to prevent any interference in the trial.

10. Hence, the following order is passed.

- i) The bail application is allowed;
- ii) The applicant Roshan Shivnath Sahani is directed to be released on regular bail in connection with Crime No. 414 of 2022 registered with Ambernath Police Station for offences punishable under Sections 302 and 201 of the Indian Penal Code, 1860, 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 report the Ambernath Police Station on first Monday of every month between 10.00 a.m. to 12.00 noon, until further orders.
 - b) The applicant shall not tamper with the evidence or attempt to influence any witness.
 - c) The applicant shall appear before the Trial Court on every date of hearing unless prevented by sufficient cause.
 - d) The applicant shall not leave the territorial jurisdiction

of the Trial Court without prior permission.

e) The applicant 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.

11. The bail application is allowed and disposed of.

(AMIT BORKAR, J.)