

Shabnoor

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

BAIL APPLICATION NO. 5367 OF 2024

Rohit Deepak Kharpe	... Applicant
V/s.	
State of Maharashtra	... Respondent

Mr. Swaraj Jadhav with Mr. Vijay Gurad with Payal Yadav, for the applicant.

Ms. Rajashree V. Newton, APP for the State – respondent.

Mr.S. R. Avhad, PSI, Tilak Nagar Police Station, Mumbai.

CORAM : AMIT BORKAR, J.

DATED : JUNE 20, 2025

P.C.:

1. This is a bail application filed by the applicant under Section 439 of the Code of Criminal Procedure, 1973. The applicant is seeking regular bail in connection with Crime Register No. 107 of 2024 registered with Tilak Nagar Police Station, Mumbai. The offences alleged against the applicant are under Section 302 of the Indian Penal Code, 1860, and under Sections 37(1)(a) and 135 of the Bombay Police Act, 1951.

2. As per the case of the prosecution, on the night of 8 March 2024, the applicant is alleged to have assaulted and killed the deceased by using a sickle. The incident is said to have occurred at

around 2:00 a.m. It is alleged that prior to the incident, the applicant, and the deceased had consumed liquor together. According to the prosecution, the deceased had made certain remarks casting aspersions on the character of the applicant's wife, which enraged the applicant and led to the commission of the offence. It is the case of the prosecution that the applicant, in a fit of rage and under the influence of alcohol, committed the murder. The applicant had earlier moved an application for bail before the Sessions Court, which came to be rejected. Aggrieved by the said order, the applicant has approached this Court by filing the present bail application.

3. The learned Advocate appearing for the applicant submitted that the applicant has been arrested on the same day, i.e., 8 March 2024, and is in custody since then. He pointed out that the case of the prosecution is based on three primary circumstances:

- (i) The applicant was allegedly last seen with the deceased at about 10:30 p.m. while consuming liquor;
- (ii) The alleged motive being the remarks made by the deceased against the character of the applicant's wife; and
- (iii) The recovery of a sickle from an open space, which, according to the prosecution, was used in the commission of the offence.

4. It is submitted that even if these circumstances are accepted at face value, they are insufficient to conclusively prove the guilt of the applicant. He argued that the recovery of the weapon from an open space cannot be directly attributed to the applicant without further corroborative evidence. It was also pointed out that the applicant has no criminal antecedents and that he has been in

custody for a considerable period. Hence, it is prayed that the applicant be released on bail, subject to suitable conditions.

5. On the other hand, the learned APP strongly opposed the grant of bail. He submitted that the CCTV footage recovered during the investigation shows a person wearing clothes similar in description to those seized from the applicant. Furthermore, the sickle alleged to be the weapon used in the offence was recovered at the instance of the applicant under Section 27 of the Indian Evidence Act. He contended that the recovery, coupled with the last seen circumstance and the motive, forms a strong chain of circumstantial evidence against the applicant. It was argued that at this stage, releasing the applicant on bail would not be appropriate, considering the serious nature of the offence and the material collected during the investigation.

6. I have considered the submissions advanced by the learned counsel for the applicant and the learned APP. I have also perused the case papers including the charge-sheet, statements of witnesses, panchnama of recovery, and CCTV footage description, as placed on record.

7. The offence alleged against the applicant is of serious nature, punishable under Section 302 of the Indian Penal Code, which pertains to murder. As per the prosecution, the motive behind the act was a personal provocation arising from remarks allegedly made by the deceased against the applicant's wife. The applicant and the deceased were known to each other and had allegedly consumed liquor together on the night of the incident.

8. As regards the evidence, it appears that the case of the prosecution is based on circumstantial evidence. The first circumstance is that the applicant and the deceased were last seen together at around 10:30 p.m. on the night of the incident. The second circumstance is the alleged motive. The third is the recovery of a sickle said to have been used in the crime. The fourth circumstance is the recovery of clothing allegedly worn by the applicant, which matches the description of clothing seen on the CCTV footage.

9. It is well settled that in cases based on circumstantial evidence, the prosecution must establish a complete chain of circumstances, which unerringly points towards the guilt of the accused and excludes every possible hypothesis of innocence. At this stage, the last seen evidence is based on the statement of a single witness. The alleged motive appears to be a matter of prior quarrel or provocation, and it will require testing during trial through evidence. The recovery of sickle from an open space, even if made at the instance of the applicant, is not sufficient by itself unless there is forensic corroboration linking the same with the offence. Similarly, the matching of clothes, though relevant, is not conclusive in the absence of clear identification of the accused from CCTV footage.

10. It is further not in dispute that the applicant has no past criminal antecedents. He has been in custody since 8 March 2024. The investigation is complete, and charge-sheet has been filed. The trial is likely to take considerable time. No material is placed on record to suggest that the applicant, if released on bail, is likely to

abscond or tamper with the prosecution evidence.

11. In view of the above facts and the material available on record, and taking into consideration the settled principles of law relating to bail in cases based on circumstantial evidence, this Court is of the opinion that the applicant has made out a prima facie case for grant of bail. However, the same shall be subject to stringent conditions to ensure that the applicant does not misuse the liberty granted.

12. In view of the above discussion and legal position, the following order is passed:

(a) The Bail Application is allowed.

(b) The applicant, shall be released on bail in connection with Crime Register No. 107 of 2024 registered with Tilak Nagar Police Station, Mumbai, for offences under Section 302 of IPC, and under Sections 37(1)(a), 135 of the Bombay Police Act, upon furnishing 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 applicant shall not tamper with evidence, or directly or indirectly contact, influence, threaten, or intimidate any witness, particularly family members of the deceased.

(d) The applicant shall report to the Tilak Nagar Police

Station, Mumbai on the first Monday of every month between 10.00 a.m. and 12.00 noon, until further orders.

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

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

(g) The applicant 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.

13. The Bail Application is accordingly disposed of in above terms.

(AMIT BORKAR, J.)