

Ajit

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO. 5392 OF 2024**

Sushant Jitin Kamthe ...Applicant

Versus

State of Maharashtra ...Respondent

Mr. Bharat Khanna, for the Applicant.

Mr. Yogesh Y. Dabake, APP for the State-Respondent.

PSI, Ramhari Bhawar, Wagle Estate Police Station, is present.

CORAM Dr. Neela Gokhale, J.

DATED: 11th September 2025

PC:-

1. The Applicant seeks his release on bail in connection with FIR No. 210 of 2024, dated 29th January 2024, for offences registered under Section 302 read with 34 of the Indian Penal Code, 1860.

2. The Complainant/first informant is the brother of the deceased namely Tanaji Shinde. The statement of the first informant indicates that on 29th January 2024 at 8.15 p.m., the police came to his house and informed him that his

brother, deceased Tanhaji, was found lying in the pool of blood on the Samata Nagar Pipeline road. The police informed him that they found him at 7 a.m. that morning. The first informant learned that his deceased brother was lying in the pool of blood and there was a serious injury on his head with blood oozing out from his head and hair. The body was lying on the road. In these circumstances, the first informant brother made a complaint to the police pursuant to which the FIR was registered.

3. Heard Mr. Khanna, learned Counsel for the Applicant and Mr. Dabake, learned APP for the State.

4. Mr. Khanna has taken me through the FIR, which clearly indicates that the first informant was not aware of who assaulted the deceased. He only learned about the death of his brother from the police. Mr. Khanna submitted that the FIR was filed on 20th January 2024 and the Applicant was arrested on 21st January 2024. He has pointed to certain statements of witnesses which are recorded on 2nd February 2024. These

persons have stated that the Applicant and another co-accused namely one Sahil have caused the injuries, on account of which, said Tanaji died. Mr. Khanna further submits that there is no even *prima facie* evidence to indicate that the Applicant has committed the said offence.

5. Mr. Dabake, on the other hand, fairly submits that the only indication of implication of the Applicant in the said offence is a disclosure statement of the Applicant and the co-accused Sahil, leading to the recovery of Applicant's blood stained clothes. Admittedly, the charge-sheet is filed on 30th March 2024, but no charges are framed as of today.

6. Heard learned Counsel for the respective parties and perused the record with their assistance. It is evident that the Applicant is arrested even prior to the recording of statements of the persons as witnesses. The Applicant is in custody from 31st January 2024 and admittedly no charge is yet framed. The Applicant does not have any antecedents. It is *prima facie* seen that the entire evidence is circumstantial. In view of the

aforesaid, in my view, a case for bail is made out. The application is therefore allowed and it is directed as under:

ORDER

- i) The Applicant be enlarged on bail, on executing PR Bond in the sum of Rs.50,000/ with one or two local sureties in the like amount;
- ii) The Applicant shall attend the Trial Court concerned on each and every date as directed, till the conclusion of the trial, save and except if the Applicant is exempted from appearance by orders of the Trial Court.
- iii) If the Applicant has not deposited his passport, the Applicant shall deposit the same with the concerned Police Station;
- iv) The Applicant shall not leave India, without permission of the trial Court;

v) The Applicant shall not tamper or attempt to influence or contact the complainant, witnesses or any person concerned with the case;

vi) The Applicant shall inform his latest place of residence and mobile contact number immediately after being released and / or change of residence or mobile details, if any, from time to time to the Court seized of the matter and to the Investigating Officer of the concerned Police Station;

vii) The Applicant to co-operate with the conduct of the trial;

viii) Any infraction of the aforesaid conditions shall entail cancellation of bail.

7. Application is allowed in the above terms and is accordingly disposed of.

8. It is made clear that the observations made herein are prima facie and are confined to this Application and the

learned Judge to decide the case on its own merits,
uninfluenced by the observations made herein.

(Dr. Neela Gokhale, J)