

AGK

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

BAIL APPLICATION NO.217 OF 2025

Aniket Ashok Telgu	... Applicant
V/s.	
The State of Maharashtra	... Respondent

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Mr. Pawan Mali i/by Mr. Kushal Ambulkar for the applicant.

Mrs. Mahalakshmi Ganapathy, APP for the respondent-State.

Mr. Dewale, PI and Mr. Sawant, PSI, Sewree Police Station, Mumbai, are present.

CORAM : AMIT BORKAR, J.

DATED : AUGUST 7, 2025

P.C.:

1. By the present application filed under Section 439 of the Criminal Procedure Code, 1973 (hereinafter referred to as “Cr.P.C.”), the applicant seeks regular bail in connection with Special Case No. 777 of 2024, arising out of Crime Register No. 136 of 2024, registered with Sewree Police Station, Mumbai. The applicant is charged for offences punishable under Sections 302, 504, 506(II) and 34 of the Indian Penal Code, 1860 (hereinafter referred to as “IPC”), along with Sections 37(1) and 135 of the Maharashtra Police Act.

2. As per the prosecution’s case, the incident occurred on 1st June 2024 at around 10:30 a.m., when the first informant had

reached his garage. At about 1:00 p.m., while the informant was working beneath a WagonR car for repair work, he suddenly noticed the car moving. Simultaneously, he heard loud abusive language being shouted nearby. Upon coming out from beneath the car, the informant saw three unknown persons assaulting Hasanbhai Kanya with knives. When the informant tried to intervene, the said assailants threatened him with dire consequences, abused him in filthy language, and warned him to remain silent, otherwise he would be attacked in the same manner. Out of fear, the informant refrained from taking any immediate action.

3. The said persons, after threatening the informant, dragged Hasanbhai aside and continued to assault him with sharp weapons, targeting his legs, hands, and abdomen. During the assault, one of the accused allegedly shouted loudly, "Hanif, run!", following which two of the assailants escaped on a motorcycle towards Laxmi Petrol Pump, while the third ran in the direction of the CRPF Canteen. With the assistance of Hasanbhai's driver, the injured victim was promptly rushed to Masina Hospital, where he was declared dead upon arrival.

4. Shri Mali, learned Advocate appearing for the applicant, submitted that as per the prosecution case, the incident was committed by unknown persons, and there is no direct evidence to show that the applicant was one of the assailants. The only material relied upon by the prosecution is the recovery of clothes allegedly worn by the applicant, and CCTV footage, which, according to the prosecution, shows the applicant along with the

co-accused riding a motorcycle at a location about 2 kilometers away from the spot of the incident, heading towards Ray Road Railway Station. It is submitted that even in the Test Identification Parade conducted by the Executive Magistrate, the informant failed to identify the applicant as one of the assailants.

5. It is further contended that though the DNA report indicates the presence of blood matching with the deceased on the clothes of the applicant, the said blood stains were minute and not sufficient to draw a definitive conclusion. He submitted that the recovery of the clothes was effected on the next day evening, whereas the incident occurred in the late night of the earlier day, thereby casting doubt on the reliability of such recovery. The learned Advocate also pointed out that the applicant has no prior criminal antecedents, and nothing adverse has been reported against him in the past.

6. To buttress his submission that the DNA report is merely an expert opinion under Section 45 of the Indian Evidence Act, 1872 and its evidentiary value would be tested only during the trial, Shri Mali placed reliance on the judgment of the Hon'ble Supreme Court in the case of *Rahul v. State (NCT of Delhi)*, (2023) 1 SCC 83. It was argued that such scientific opinion cannot be treated as conclusive proof of guilt at the stage of considering bail, particularly in the absence of direct identification or other corroborative material.

7. On the other hand, Ms. Mahalaxmi Ganapathy, the learned Assistant Public Prosecutor (APP) vehemently opposed the bail

application. She submitted that the informant is an eyewitness to the incident and had clearly narrated how three persons stabbed the deceased, and during the assault, one of them had loudly shouted “Hanif, bhag”. Soon after that, all the assailants fled from the spot on two motorcycles. She submitted that the CCTV footage recovered from nearby locations clearly shows four persons on two motorcycles, and out of them, the present applicant has been identified by a secret witness.

8. The learned APP further submitted that the shirt and pant worn by the applicant at the time of incident were recovered at his instance, and such recovery lends credence to the prosecution case. She added that both motorcycles, which were allegedly used by the accused to flee from the scene, have also been recovered by the police.

9. She also placed reliance on the Call Detail Records (CDR), which, according to her, show that on the previous day, i.e., 31st May 2024, between 9:28 p.m. and 11:30 p.m., the applicant was in frequent contact with the co-accused Hanif, and the mobile tower location of both was in the same vicinity of the crime spot, indicating that they had done a recce of the area in advance.

10. It is further submitted that even on the day of the incident, i.e., 1st June 2024 at around 12:35 p.m., the mobile location of the applicant matched with that of co-accused Hanif and another absconding accused, and the tower location was approximately 150 meters away from the place of occurrence. This, according to the prosecution, strongly suggests that the applicant was present

near the spot around the time of the incident.

11. The learned APP further emphasized that the DNA report of the clothes recovered from the applicant matches with the DNA profile of the deceased, and hence, *prima facie*, it creates a presumption of the presence of the applicant at the crime scene. On these grounds, the learned APP submitted that the applicant is not entitled to be released on bail at this stage, and the application deserves to be rejected.

12. I have carefully considered the submissions advanced by the learned Advocate for the applicant and the learned APP for the State. I have also gone through the material placed on record, including the FIR, statement of the informant, CCTV footage, Call Detail Records (CDR), recovery panchnamas, and the DNA analysis report.

13. It is no doubt correct that in the First Information Report (FIR), the informant had described the assailants as unknown persons. However, this fact, by itself, cannot be the sole ground to discard the prosecution case against the applicant, particularly when the subsequent investigation has unearthed circumstantial and forensic evidence, which, taken together, *prima facie* indicate the involvement of the present applicant.

14. The investigation has revealed material in the nature of CCTV footage, Call Detail Records (CDR), and recovery of clothes with blood stains, as well as forensic evidence in the form of DNA matching. The argument of the applicant that he was not identified in the Test Identification Parade (TIP) conducted by the Executive

Magistrate, is not sufficient to discard the prosecution case at this stage. It is well-settled that TIP is only an investigative tool and not substantive evidence, and non-identification in the parade does not automatically weaken the case of the prosecution when other strong material is available.

15. Moreover, it must be kept in mind that bail proceedings are not a trial, and this Court is not expected to weigh the evidence in minute detail or test its admissibility or probative value at this stage. The only consideration is whether there exists reasonable ground to believe that the applicant is *prima facie* connected with the offence. In the present case, the totality of the material collected during investigation, including the mobile tower location and recovery of blood-stained clothes matching the DNA of the deceased, raises serious suspicion regarding the involvement of the applicant. These aspects cannot be brushed aside solely on the ground that the informant failed to identify him in the TIP.

16. Therefore, considering the overall chain of circumstances, the version of the prosecution cannot be said to be improbable at this stage, and the investigation has yielded sufficient *prima facie* evidence, justifying further proceedings against the applicant. This Court is, thus, not inclined to accept the argument of the applicant seeking his release merely on the basis of non-identification in the TIP.

17. The CCTV footage, though not showing the incident itself, shows four persons on two motorcycles, and the applicant is allegedly seen with the co-accused Hanif, fleeing in a direction

shortly after the incident. This footage, in conjunction with other evidence, forms an important link in the chain of events.

18. The Call Detail Records (CDR) further corroborate the prosecution's case. The applicant is shown to be in constant communication with co-accused Hanif on the previous night (31 May 2024), and their tower locations match the vicinity of the place of offence. On the day of the incident (1 June 2024) as well, the tower location of the applicant's mobile corresponds with that of Hanif and another absconding accused, barely 150 meters from the crime spot, and that too close to the time of the offence. These facts strongly suggest active participation and presence of the applicant near the scene of crime.

19. Another important circumstance that cannot be ignored is the recovery of the clothes allegedly worn by the applicant at the time of the incident. As per the prosecution case, these clothes were recovered at the instance of the applicant himself, during the course of investigation. This recovery, which is supported by a proper panchnama and witness statements, gains further significance because the forensic examination of the said clothes revealed the presence of blood stains.

20. The DNA analysis report, which is a scientific piece of evidence, indicates that the blood found on the applicant's clothes matches the DNA profile of the deceased. This finding, at least at the stage of bail, lends strong corroboration to the prosecution's version that the applicant was present at the time of the incident and had close physical proximity to the deceased during or after

the assault.

21. The learned Advocate for the applicant has tried to downplay the effect of this evidence by contending that the blood stains were minimal and that the DNA report is merely an expert opinion, the value of which can only be assessed during the trial as per Section 45 of the Indian Evidence Act, 1872. While this legal position is not disputed, it is equally well-settled that at the stage of bail, the Court is not required to evaluate the evidence in a microscopic manner or determine its final admissibility or weight. The only question at this stage is whether there exists sufficient material to form a prima facie view that the applicant was involved in the offence.

22. In the present case, the recovery of the blood-stained clothes, the matching DNA profile, and the fact that such articles were allegedly concealed by the applicant and later recovered at his instance, cumulatively suggest that the applicant was not a passive or distant onlooker, but was actively involved in the incident. These circumstances, though open to challenge and explanation during trial, cannot be ignored or brushed aside while considering the question of bail, particularly in a case involving a serious offence like murder under Section 302 IPC.

23. Therefore, this Court finds that the forensic evidence, though ultimately to be tested during trial, forms a material link in the chain of circumstances that justifies the prosecution's claim of the applicant's complicity. At this preliminary stage, it provides sufficient ground to deny the relief of bail.

24. The contention that the recovery was delayed or that the blood stains were insufficient to draw a definitive conclusion is a matter of appreciation of evidence during trial, and cannot be a ground to ignore the cumulative effect of the material pointing to the applicant's involvement.

25. The allegation is of a brutal and pre-planned murder, carried out in broad daylight with deadly weapons. The conduct of the accused, including use of multiple motorcycles for escape, threats to the eyewitness, and coordination among the accused persons, suggests a conspiracy and calculated execution of the offence. The gravity and seriousness of the crime, along with the manner in which it was committed, must also be considered at the stage of bail.

26. It is true that the applicant has no criminal antecedents, but the nature of offence, the prima facie material collected, and the possibility of tampering with witnesses, especially considering that the assailants threatened the informant at the time of the incident, weigh against the grant of bail at this stage.

27. The investigation is still ongoing in respect of the absconding accused, and the possibility of the applicant influencing the course of investigation or attempting to interfere with witnesses cannot be ruled out. The prosecution has shown a prima facie case, and the material on record reasonably connects the applicant with the offence.

28. Accordingly, the bail application stands rejected.

(AMIT BORKAR, J.)