

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

CRIMINAL BAIL APPLICATION NO. 260 OF 2025

Omkar @ Bhaiya Anil Kolpe ... Applicant.
Vs.
The State of Maharashtra ... Respondent.

Mr. Kuldeep Nikam a/w Mr. Om Latpate & Mr. Rohit Karanjwane,
Advocate for the Applicant.

Mr. T. G. Khan, APP for Respondent/State.

Mr. Chaitanya Mulawkar, Advocate for Intervener.

Mr. Ravi Jadhav-PSI, Bharti Vidyapeeth, Pune City.

CORAM : ASHWIN D. BHOBE, J.

DATE : 24th JULY, 2025.

P.C. :

1. Heard Mr. Kuldeep Nikam, learned Advocate for the Applicant, Mr. T. G. Khan, learned APP for the Respondent-State and Mr. Chaitanya Mulawkar, Advocate for Intervener.

2. By the present Application, filed under Section 439 of the Code of Criminal Procedure the Applicant is seeking Bail in connection with Crime No. 335 of 2022 registered with the Bharati Vidyapeeth Police Station for the offences punishable under Sections 302, 307, 120B, 201, 34 of the Indian Penal Code, Section 4(25) of the Arms Act and Section 37(1)(3) r/w 135 of the Maharashtra Police Act. Said Crime is registered as Sessions Case No. 869 of 2022 and is pending on the file of the Court of the Additional Sessions Judge, Pune.

3. There are two Accused in the present crime. Third Accused is a juvenile.

4. Case of the prosecution is that on account of a previous enmity, the Accused committed murder of Ajit Kolpe (deceased). Injuries suffered by Ajit Kolpe on account of use of dangerous weapons i.e. Koyta/ sickle. Ajit Kolpe succumbed to the injuries.

5. Applicant was arrested on 24th May, 2022 since then he is in jail. Bail Application at Exhibit-18 filed by the Applicant in Sessions Case No. 869 of 2022 was rejected by the learned Additional Sessions Judge, Pune by order dated 19th December, 2024.

6. Mr. Kuldeep Nikam, learned Advocate for the Applicant, submits that the prosecution is based on the statement of a person who is claimed to be eye-witness. He submits that said eyewitness claims to have seen the assailants wearing face mask. He submits that though the sickle which is alleged to be used in the assault has been recovered at the instance of the Applicant, however, there are no blood stains or traces of any blood on the said weapon. He submits that TI parade was not conducted. He submits that the material placed on record does not indicate any motive for implication of the Applicant in the present crime. He submits that the case of the prosecution is based on circumstantial evidence which are weak piece of evidence.

7. Mr. T. G. Khan, learned APP for the Respondent-State submits that jeans owned by the Applicant on the date of the offences are recovered at the instance of the Applicant, which have blood stains. He submits that there is an eyewitness to the crime. He submits that there

are witnesses which indicate the involvement of the Applicant in the crime.

8. Mr. Chaitanya Mulawkar, learned Advocate for Intervener submits that the motive to commit the murder is previous enmity. He submits that the Applicant had on an earlier occasion assaulted the Ajit Kolpe, case to that effect stands registered.

9. I have perused the record with the able assistance of learned Advocates for the parties.

10. Prosecution relies on the testimony of the eyewitness, who claims to have seen the assault and the assailants, however, said eyewitness has stated that the faces of the assailant were masked. Thus identity of the assailants is not established. Records do not indicate test identification parade being conducted. No material is placed on record to indicate Applicant having any motive to commit murder. CCTV footage relied by the prosecution does not establish case as sought to be put forth by the prosecution.

11. Accused No.2 (Atul Vilas Kolpe), has been released on bail by this Court by its order dated 17th October, 2024 in Criminal Bail Application No. 2937 of 2023.

12. Case against the Applicant is based on circumstantial evidence. Circumstances pointed out by the prosecution at the most create a suspicion as against the Applicant. Prosecution will have to prove the circumstances during the course of trial. Prima facie the material on record does not support the the allegations of the Applicant

being involved in the crime.

13. Mr. Kuldeep Nikam submits that charged is not framed in Sessions Case No. 869 of 2022.

14. Mr. Chaitanya Mulawkar, learned Advocate for Intervener has raised and apprehension that in the event of Applicant is released on bail, there is a possibility of law and order situation in the locality. Mr. Kuldeep Nikam, learned Advocate for the Applicant, on instructions from the Applicant states that if indulgence is shown, the Applicant shall abide by all the conditions that may be imposed by this Court and makes a statement on instructions from the Applicant that till the conclusion of trial in Sessions Case No.869 of 2022, the Applicant will not enter the territorial jurisdiction of Taluka Bhore, Pune. Statement accepted.

15. In view of the above, the present Bail Application is allowed, on the following conditions:-

(a) Applicant is directed to be released on bail in connection with Crime No. 335 of 2022, registered with Bharati Vidyapeeth Police Station, Pune, upon furnishing P.R. Bond in the sum of Rs.25,000/- each with one or two sureties in the like amount, to the satisfaction of the Additional Sessions Judge, Pune.

(b) Applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with facts of the case so as to dissuade him / her from disclosing the facts to the Court or any police officer and Applicant shall not tamper with evidence.

(c) Applicant upon release, within 3 days shall furnish to the

Investigating Officer, Bharati Vidyapeeth Police Station, Pune, his residential addresses with proof and the contact numbers and to keep the Investigation Officer intimated about the change in the same from time to time.

(d) Applicant shall attend the trial in Sessions Case No. 869 of 2022 pending before the Trial Court regularly on every date unless exempted by the Trial Court.

(e) Applicant shall not enter the territorial jurisdiction of Bhore Taluka District, Pune till the conclusion of the trial in Sessions Case No. 869 of 2022 ;

(f) Applicant shall report to the Investigation Officer, Narayangaon Police Station, District Pune on the first Saturday of every month from 10.00 a.m. to 12.00 p.m., till the framing of charge in Sessions Case No. 869 of 2022.

15. Criminal Bail Application No. 260 of 2025 is disposed off in the above said terms.

(ASHWIN D. BHOBE, J.)

Digitally signed
by GAYATRI
RAJENDRA
SHIMPI
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