

AGK

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

BAIL APPLICATION NO.290 OF 2025

Akshay Rajendra Golambare	... Applicant
V/s.	
The State of Maharashtra	... Respondent

Mr. Aniket U. Nikam i/by Mr. Sumit Patil for the applicant.

Ms. Kranti T. Hiwrale, APP for the respondent-State.

Mr. Dnyaneshwar Edwale, PSI, Mhasla Police Station, is present.

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CORAM : AMIT BORKAR, J.

RESERVED ON : SEPTEMBER 8, 2025

PRONOUNCED ON : SEPTEMBER 9, 2025

P.C.:

1. The present bail application is filed under Section 439 of the Code of Criminal Procedure, 1973, wherein the applicant seeks his release on regular bail in connection with Crime Register No.55 of 2025 registered with Mhasla Police Station, District Raigad. The offences alleged are under Sections 302 and 201 of the Indian Penal Code, 1860, and Sections 3, 5, 25, and 27 of the Arms Act, 1959.

2. The prosecution case, in brief, is that on 29 May 2024, the wife of the deceased lodged Missing Report No.02 of 2024. During investigation, Call Detail Records of Mobile No.9699606249 belonging to the deceased were obtained. It was revealed that the

last call from the deceased's phone was to Mobile No.8830667912.

3. On 30 May 2024, at about 8.15 p.m., the police summoned the present applicant, as the said number belonged to him, for enquiry. On being questioned, the applicant stated that the deceased was his friend. On 28 May 2024 at about 11.00 p.m., he called the deceased to Dehen Phata. The deceased arrived on his motorcycle. The applicant carried his gun with him, and thereafter both went to the jungle at Pashti village for hunting. The deceased parked his motorcycle near a shop-shed in Pashti village, and both proceeded further on the applicant's motorcycle to the jungle at Vangani, via Moravane village. There they parked the applicant's motorcycle and went ahead on foot in search of prey. On 29 May 2024 at about 1.00 p.m., since no prey was found, a quarrel ensued. The deceased allegedly abused the applicant in the name of his mother. The applicant then used his gun, shot the deceased, and killed him. To conceal the crime, the body of the deceased was thrown into a stone quarry. On this information, the complaint was registered.

4. Learned counsel for the applicant argued that the prosecution case rests entirely on circumstantial evidence. The alleged motive is a quarrel during the hunting trip, leading to the applicant shooting the deceased. The so-called extra judicial confession made to the applicant's father was recorded after ten days, and even then, it was the father who is said to have informed the police. The dead body was recovered on 31 May 2024 from water in a stone quarry. No memorandum under Section 27 of the Evidence Act was prepared, hence the recovery at the instance of

the applicant is inadmissible. The gun allegedly recovered at the showing of the applicant was not immediately found, but only four days later, which shows that the police already knew of the place of recovery. The bullet allegedly recovered from the applicant's house is insufficient to complete the chain of circumstances. Reliance is placed on the judgment of the Supreme Court in *Boby vs. State of Kerala, (2023) 15 SCC 760*, to contend that unless a statement under Section 27 is recorded, recovery at the instance of the accused cannot be relied upon. On these grounds, it was prayed that the applicant be released on bail.

5. On the other hand, learned APP opposed the application. He submitted that the body was recovered from water in a stone quarry on the disclosure made by the applicant. The gun used in the offence was also recovered at the instance of the applicant. The post-mortem report shows that death was due to gunshot injury. Call Detail Records establish that the applicant had spoken with the deceased at about 11.00 p.m. on the night of the incident. The applicant also made an extra judicial confession to his father, admitting his involvement. Even if the recovery is not strictly covered by Section 27 of the Evidence Act, the disclosure of the place of the dead body by the applicant is relevant under Section 8 of the Evidence Act. The cumulative circumstances, namely the extra judicial confession, the role of the father in informing the police, apprehension of the applicant, discovery of the body, recovery of bullet and gun at his instance, clearly show his involvement. Hence, the applicant does not deserve the relief of bail.

6. I have considered the submissions of the learned counsel for the applicant and the learned APP. The allegations against the applicant are of committing murder by using a firearm and thereafter attempting to destroy the evidence by disposing of the body in a stone quarry. The nature and gravity of the offence are of the highest degree.

7. The prosecution case, though resting upon circumstantial evidence, discloses strong incriminating circumstances against the applicant. The Call Detail Records collected during investigation indicate that the deceased was last in telephonic contact with the applicant at the relevant point of time. This circumstance assumes importance in assessing the role of the applicant.

8. It is a settled principle of criminal jurisprudence that in a case based on circumstantial evidence, each circumstance relied upon by the prosecution must be proved, and all such circumstances, taken together, must form a chain so complete that it leaves no reasonable ground for a conclusion consistent with the innocence of the accused. The circumstance of the deceased being last in contact with the applicant is one such link in the chain.

9. In the instant case, the prosecution has brought on record material to show that the deceased was last in contact with the applicant, and there is no explanation forthcoming from the applicant as to the nature of such contact or the circumstances in which he parted ways with the deceased. The absence of such explanation at this stage adds weight to the prosecution version. This circumstance, though not conclusive in itself, becomes a

strong link when considered along with the other materials collected during investigation.

10. The extra judicial confession made by the applicant to his father, which was immediately conveyed to the police, cannot be brushed aside at this stage. Such a confession, though made to a relative, carries weight when it is found to be voluntary and consistent with the subsequent conduct of the accused. It is settled law that extra judicial confession, if found reliable and corroborated by other circumstances, can be the basis for conviction. The Supreme Court has consistently held that extra judicial confession, though a weak piece of evidence by itself, can form the basis of conviction if it is voluntary, true, and inspires confidence. In *Sahadevan and Another v. State of Tamil Nadu* (2012) 6 SCC 403, the Court held that when such confession is corroborated by other material circumstances, it attains credibility and can be safely relied upon. An extra judicial confession, if found genuine and corroborated, can be acted upon. At the stage of bail, the Court is not required to weigh its evidentiary value in detail, but cannot ignore its prima facie relevance in linking the applicant with the crime. At the stage of bail, the Court need not test its evidentiary value in detail, but it certainly cannot be ignored while assessing the prima facie case. The statement of the father, read along with the circumstances brought on record, adds to the chain of incriminating facts which point towards the applicant's complicity.

11. Even if the Applicant disputes admissibility of the recovery under Section 27 of the Evidence Act, the fact remains that the

discovery of the dead body on the disclosure made by the applicant is by itself a relevant fact under Section 8 of the Evidence Act. The law recognises that the conduct of an accused, whether before or after the commission of the offence, may become relevant in judging his involvement. The disclosure leading to the recovery of the dead body from the quarry is a strong circumstance showing that the applicant alone was aware of the place where the body was concealed. Such knowledge cannot be attributed to an innocent person. Further, even if the defence disputes admissibility of the recovery under Section 27 of the Evidence Act, the fact remains that the discovery of the dead body on the disclosure made by the applicant is a relevant fact under Section 8 of the Evidence Act. The conduct of an accused, leading to the discovery of the place where the body was concealed, becomes admissible not as a confession but as conduct explaining his role. In *A.N. Venkatesh v. State of Karnataka* (2005) 7 SCC 714, the Supreme Court held that disclosure of the place of concealment of a dead body is admissible under Section 8, being part of the conduct of the accused. Likewise, in *State of Maharashtra v. Suresh* (2000) 1 SCC 471, the Supreme Court ruled that when an accused points out the place where the dead body is hidden, such conduct is a highly incriminating circumstance against him.

12. Therefore, the extra judicial confession and the recovery of the body together form important links in the chain of circumstances. These links, supported by the recovery of weapon and bullet and the medical evidence of gunshot injury, create a prima facie case of a grave nature against the applicant. At this

stage, these circumstances, taken cumulatively, strongly support the prosecution and disentitle the applicant from claiming bail.

13. Another incriminating circumstance relied upon by the prosecution is the recovery of the weapon and bullet at the instance of the applicant. The material placed on record shows that pursuant to the disclosure statement made by the applicant, a firearm and a bullet were recovered by the Investigating Officer. The said recovery stands recorded in the seizure panchanama prepared in the presence of independent panch witnesses.

14. It is true that the evidentiary value of such recovery is governed by Section 27 of the Indian Evidence Act, 1872. The settled position of law, as laid down by the Privy Council in *Pulukuri Kotayya v. King Emperor* AIR 1947 PC 67 and followed consistently thereafter, is that only so much of the statement of the accused which distinctly relates to the fact thereby discovered is admissible in evidence. The discovery of a weapon or an article pursuant to such disclosure becomes a relevant fact connecting the accused with the crime.

15. In the present case, the recovery of the firearm and bullet cannot be viewed in isolation. The post-mortem report clearly records that the cause of death was firearm injury. Thus, the medical evidence lends corroboration to the recovery, making it an important link in the chain of circumstances. Discovery of a weapon at the instance of the accused, when supported by medical opinion, provides strong corroborative evidence in a case resting on circumstantial proof.

16. Even if the admissibility of the disclosure statement is questioned, the conduct of the applicant in leading the police to the place of recovery is itself admissible under Section 8 of the Evidence Act. Therefore, the recovery of the firearm and bullet at the instance of the applicant, coupled with the medical evidence showing death due to firearm injury, *prima facie* connects the applicant with the commission of the offence.

17. The cumulative effect of the circumstances, namely (i) last seen evidence through Call Detail Records, (ii) disclosure leading to recovery of the dead body, (iii) recovery of weapon and bullet at the instance of the applicant, (iv) post-mortem report showing firearm injury, and (v) extra judicial confession to father, constitute a strong *prima facie* case against the applicant. At this stage, these circumstances cannot be lightly discarded.

18. The offence alleged is heinous, punishable with death or life imprisonment. Grant of bail in such matters requires the Court to be satisfied that the applicant is not likely to tamper with evidence or influence witnesses. In the present case, the role attributed to the applicant and the nature of evidence collected create a reasonable apprehension that his release on bail may prejudice the fair course of trial.

19. Considering the gravity of offence, seriousness of allegations, and strong *prima facie* case against the applicant, this Court is not inclined to exercise discretion in favour of the applicant.

20. The application for bail is, therefore, rejected.

(AMIT BORKAR, J.)