

VRJ

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

BAIL APPLICATION NO.433 OF 2025

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Ankush Pandurang Chavan

... Applicant

V/s.

The State of Maharashtra

... Respondent

Mr. Balwant Salunke for the applicant.

Ms. Mahalaxmi Ganapathy, APP for the State.

CORAM : AMIT BORKAR, J.

DATED : JULY 2, 2025

P.C.:

1. This is an application preferred by the applicant under Section 439 of the Code of Criminal Procedure, 1973, seeking his release on bail in connection with Crime No. I-149 of 2021 registered at Kangaon Police Station for offences punishable under Sections 302 and 307 of the Indian Penal Code, 1860.

2. As per the prosecution's case, the deceased was the nephew of one Santosh Rathod. It is alleged that there was a prior quarrel between the applicant and the deceased during the lockdown period in 2020 regarding their children. On 30.05.2021, the applicant had gone out for work. At about 5:30 p.m., he is stated to have contacted one Sudhir Chavan on his mobile phone and picked him up, along with one Anil Jadhav, in his auto-rickshaw. Thereafter, the applicant allegedly asked Anil Jadhav to get down

from the auto near Anjurphata. He is then said to have procured a liquor bottle from Saiprasad Beer Bar and Hotel, and took Sudhir Chavan with him in the rickshaw to different spots within the jurisdiction of village Pimplener, Taluka Bhiwandi. It is further alleged that after Sudhir consumed liquor, the applicant assaulted him with an iron hammer, which was kept in his auto-rickshaw, and thereby inflicted grievous injuries. On the basis of these allegations, the present FIR came to be registered and the applicant was arrested.

3. Learned counsel appearing for the applicant submitted that the only material relied upon by the prosecution to connect the applicant with the alleged offence is the statement of a witness, Anil Jadhav, who claims that he had travelled in the auto-rickshaw driven by the applicant and was asked to get down at Anjurphata. It is submitted that this constitutes only a "last seen" circumstance. It is further pointed out that bloodstains were allegedly found on the clothes recovered at the instance of the applicant, but there is no forensic report confirming that the blood is of the deceased. It is argued that the alleged incident occurred in a jungle area and there are no eye-witnesses to the actual act of assault. The applicant has been in custody since 31st May 2021. Learned counsel further submitted that since the year 2023, the applicant is not being regularly produced before the Trial Court, and the trial has not made any significant progress. In these circumstances, the applicant prays for his release on bail.

4. On the other hand, the learned APP strongly opposed the bail application and submitted that the last seen theory, as deposed

by Anil Jadhav, is corroborated by his statement recorded under Section 164 of the Cr.P.C., thereby lending it credence. It is further submitted that the recovery of bloodstained clothes at the instance of the applicant is a crucial piece of evidence which can be read against him under Section 27 of the Indian Evidence Act. According to the prosecution, these circumstances are sufficient to establish the involvement of the applicant in the commission of the offence and to support conviction at trial. Hence, the learned APP prayed that the application be rejected.

5. I have considered the rival submissions and perused the material on record. At this stage, it is seen that there is no direct eye-witness to the incident. The case of the prosecution mainly rests on the last seen theory and recovery of bloodstained clothes. However, the statement of the witness Anil Jadhav, even if recorded under Section 164 of Cr.P.C., only shows that the deceased was last seen in the company of the applicant. The incident is stated to have taken place much later and at a different location. The time gap between the last seen and the recovery of the body is not clearly explained. In such cases, the last seen circumstance by itself may not be sufficient to conclusively establish guilt, unless supported by other strong incriminating evidence.

6. As far as the recovery of bloodstained clothes is concerned, it is a matter of evidence at trial whether the blood is that of the deceased and whether the recovery was in fact voluntary and admissible. Further, the applicant has been in custody since 31st May 2021, and the charges have not yet been framed. It is also not

disputed that the applicant has not been produced before the Trial Court since 2023 and the trial is not likely to commence in the near future.

7. The right to a speedy trial is a part of Article 21 of the Constitution of India. Prolonged incarceration without progress in trial proceedings tilts the balance in favour of granting bail, particularly when the material against the accused is largely circumstantial and the evidence is yet to be tested during trial.

8. In view of the above discussion, and considering the nature of the evidence, the length of custody, and the delay in trial, I am of the opinion that the applicant deserves to be released on bail, subject to appropriate conditions to ensure his presence during trial and to safeguard the interest of justice.

9. Hence, the following order is passed.

10. The applicant Ankush Pandurang Chavan is directed to be released on bail in connection with Crime No.I-149 of 2021, registered with Kangaon Police Station for offences punishable under Sections 302 and 307 of the Indian Penal Code, 1860, upon furnishing a personal bond of Rs.25,000/- (Rupees Twenty Five Thousand Only) with one or more solvent sureties in the like amount, to the satisfaction of the Trial Court, subject to the following conditions:

- a) The applicant shall not tamper with the evidence or attempt to influence any witness.
- b) The applicant shall appear before the Trial Court on

every date of hearing unless prevented by sufficient cause.

c) The applicant shall report to the Kangaon Police Station on the first Monday of every month between 10.00 a.m. and 12.00 noon, until further orders.

d) The applicant shall not leave the territorial jurisdiction of the Trial Court without prior permission.

e) The applicant shall not indulge in any criminal activity during the pendency of the trial.

11. The bail application is disposed of in the aforesaid terms.

(AMIT BORKAR, J.)