

VRJ

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

BAIL APPLICATION NO.452 OF 2025

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Wahid Shaukat Ali Shaikh

... Applicant

V/s.

The State of Maharashtra

... Respondent

Mr. Abdul Raheem Bukhari for the applicant.

Ms. Rajashree V. Newton, APP for the State.

Mr. K. D. Vartha, PSI, Padgha Police Station is present.

CORAM : AMIT BORKAR, J.

DATED : JULY 9, 2025

P.C.:

1. This is an application for bail filed under Section 439 of the Code of Criminal Procedure, 1973. The applicant is seeking to be released on bail in connection with Crime Register No. 101 of 2024 registered with Padgha Police Station, Bhiwandi. The offences alleged against the applicant are serious in nature, and are punishable under Section 395 (dacoity committed by five or more persons), Section 392 (robbery), Section 201 (causing disappearance of evidence of offence), read with Section 34 (acts done by several persons in furtherance of common intention) of the Indian Penal Code, 1860.

2. The case of the prosecution, in brief, is that on 24th February 2024 at about 6:30 a.m., the complainant, along with some

witnesses, was travelling by car from Nashik to Mumbai. Near Padgha Toll Naka, their vehicle was allegedly followed by another car in which four unknown persons were travelling. It is alleged that these four persons intercepted the complainant's car, forcibly took away a bag containing valuables, and thereafter fled from the spot towards Nashik. According to the prosecution, the number plate fixed on the said car was forged, and the said forged number plate is alleged to have been prepared and supplied by the present applicant. The applicant came to be arrested on 3rd March 2024. During the course of investigation, it is further alleged that some gold ornaments, which were a part of the stolen articles, were recovered at the instance of the applicant. The Sessions Court had earlier rejected the bail application. Hence, the applicant has approached this Court by filing the present application.

3. Learned advocate for the applicant submitted that except the disclosure statement recorded under Section 27 of the Indian Evidence Act and the recovery of the alleged stolen items from an open place, there is no substantial material connecting the applicant with the offence. It was pointed out that no Test Identification Parade (TIP) was conducted by the Investigating Officer, despite the fact that the accused was not previously known to the complainant or witnesses. It is argued that mere recovery from an open place, without proper identification, is not sufficient to deny bail. Hence, it is submitted that the applicant may be released on regular bail.

4. On the other hand, the learned Additional Public Prosecutor strongly opposed the bail application. It was submitted that the

recovery of the stolen property has been effected from the applicant and there is CCTV footage indicating the presence of the applicant near the spot of the incident. It is further submitted that although the TIP is yet to be conducted, the material collected so far points towards the involvement of the applicant. The learned APP also pointed out that the applicant has criminal antecedents, and there is a likelihood that, if released, he may indulge in similar criminal activities. Therefore, it was prayed that the bail application be rejected.

5. I have carefully considered the submissions advanced by both sides and perused the material placed on record. It is not in dispute that the present applicant was not named in the First Information Report. His involvement is mainly alleged on the basis of the disclosure statement under Section 27 of the Indian Evidence Act and the recovery of some stolen gold ornaments from an open place, allegedly at his instance. However, it is well settled that such recovery from an open space, which is accessible to others, by itself, cannot be treated as conclusive proof of guilt, especially at the stage of bail.

6. It is also an admitted position that no Test Identification Parade (TIP) has been conducted till date, although the incident involved unknown assailants and the identification of the accused is crucial. The delay in holding the TIP diminishes its evidentiary value. Moreover, there is no material to show that the applicant was seen at the scene of offence, except a general reference to CCTV footage, which has not been placed on record for the perusal of this Court. The prosecution has not clarified whether the

footage clearly depicts the applicant's face or identity.

7. The apprehension of the prosecution regarding the antecedents of the applicant and likelihood of repetition of offence is a matter of concern. However, no previous conviction is brought to the notice of this Court, and the alleged antecedents are in the nature of past FIRs, which are yet to be tested in trial. Bail cannot be denied solely on the basis of pending cases unless there is material to show a consistent pattern of habitual offending or breach of bail conditions in the past.

8. The investigation appears to be substantially completed, and the applicant has been in custody since 3rd March 2024. The further custodial interrogation of the applicant is not shown to be necessary. Therefore, taking an overall view of the matter, this Court is of the opinion that the continued detention of the applicant is not warranted at this stage.

9. Hence, the following order is passed.

10. The applicant Wahid Shaukat Ali Shaikh is directed to be released on bail in connection with Crime Register No.101 of 2024, registered with Padgha Police Station, Bhiwandi for offences punishable under Section 395 (dacoity by five or more persons), 392 (robbery), 201 (causing disappearance of evidence), read with Section 34 (common intention) 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 Padgha 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 stands disposed of in the aforesaid terms.

(AMIT BORKAR, J.)