

Shabnoor

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

BAIL APPLICATION NO.529 OF 2025

Shansul Azam Abuhurera Khan @ Raju ... Applicant
V/s.
State of Maharashtra ... Respondent

**WITH
INTERIM APPLICATION NO.2395 OF 2025
IN
BAIL APPLICATION NO.529 OF 2025**

Santosh Kumar Singh ... Applicant
V/s.
State of Maharashtra ... Respondent

Mr. Mithilesh Mishra i/b MR. Agastya Desai, for the applicant.

Mr. Ramesh Tripathi, a/w Shruti Tripathi, Kushal Tripathi, Manshi Sadhwani i/by Ramesh Tripathi & Associates for Intervener.

Mrs. Rajashree V. Newton, APP for the State – respondent.

Mr. Rajiv Lole, API, NRI Costal Police Station, Navi Mumbai.

CORAM : AMIT BORKAR, J.

DATED : JULY 28, 2025

P.C.:

1. The present bail application is filed by the applicant under Section 439 of the Code of Criminal Procedure, 1973, seeking his

release in connection with Crime Register No. 9 of 2024 registered with NRI Sagari Police Station, Navi Mumbai. The applicant has been arrested in connection with serious offences punishable under Sections 302 and 201 of the Indian Penal Code, 1860.

2. As per the prosecution case, it is alleged that the present applicant (Accused No.1) and co-accused Poonam (Accused No.2) were having an extramarital relationship. The deceased was the husband of Accused No.2. At the same time, it is further alleged that the deceased was also involved in an intimate relationship with the sister of the present applicant. It is stated that the deceased and the applicant's sister were colleagues, working in the same office. According to the prosecution, this web of relationships gave rise to jealousy and resentment, which ultimately led the accused persons to allegedly conspire and murder the deceased. The alleged incident of murder is said to have occurred during the intervening night of 12th and 13th January 2024. The prosecution also relies on mobile communication records indicating frequent contact between the applicant and the deceased before the incident, which is projected as circumstantial evidence pointing towards a conspiracy. The applicant was arrested on 14th January 2024. His bail application before the Sessions Court came to be rejected. Hence, the present application has been filed before this Court.

3. The learned Advocate appearing on behalf of the applicant has taken me through the case papers and statements of the prosecution witnesses. It is submitted that the entire prosecution case rests solely on circumstantial evidence. The main

circumstances being relied upon by the prosecution are – (i) the alleged motive due to personal relationships, (ii) the theory of the deceased being last seen in the company of the applicant, (iii) recovery of bloodstained clothes, and (iv) recovery of the alleged weapon. The learned Advocate has pointed out that although the prosecution places reliance on CCTV footage showing the applicant entering the office premises along with witness Satyam Singh, such footage is post-incident and does not conclusively establish the applicant's involvement in the crime. It is further submitted that the footage does not show the applicant wearing the bloodstained shirt, which the prosecution later recovered. The learned Advocate contends that witness Satyam Singh was allegedly present on the mezzanine floor at the relevant time, while the incident is stated to have occurred inside the cabin of the deceased. The alleged weapon, an iron rod, was recovered from the passage in front of the cabin, which, according to the defence, is accessible to others as well. In light of these facts, it is submitted that the prosecution has not established a complete and unbroken chain of circumstances to point solely towards the guilt of the applicant. Therefore, it is prayed that the applicant be released on bail, as the material is not sufficient to justify his continued detention.

4. On the other hand, the learned APP, assisted by the learned Advocate representing the victim's family, has strongly opposed the grant of bail. It is argued that the prosecution has sufficiently brought on record the motive, which arises from the alleged romantic involvement between the deceased and the applicant's

sister, as well as between the applicant and the deceased's wife. This, according to the prosecution, provided sufficient provocation and intent for the applicant to eliminate the deceased. It is submitted that witness Satyam Singh had last seen the applicant in the company of the deceased in the same office premises. Moreover, the applicant is stated to have made an extra-judicial confession before said witness, admitting to his involvement. The prosecution has also placed reliance on recovery of the bloodstained T-shirt and other articles from the applicant, which allegedly supports their case. It is pointed out that in the CCTV footage captured shortly after the incident, the applicant is seen leaving the premises along with Satyam Singh. These cumulative circumstances, according to the prosecution, prima facie indicate the applicant's role in the commission of the offence and, therefore, it is submitted that no case is made out for the grant of bail at this stage.

5. I have considered the rival submissions of both sides and carefully perused the material placed on record. At the outset, it is required to be noted that the case of the prosecution is based entirely on circumstantial evidence. There is no direct eyewitness account of the alleged act of murder. In such cases, it is well settled that the chain of circumstances must be complete and unbroken, and it must point only towards the guilt of the accused and rule out every hypothesis consistent with his innocence.

6. In the present case, the prosecution relies on four circumstances (i) motive; (ii) last seen together; (iii) recovery of bloodstained clothes; and (iv) recovery of alleged weapon. While

motive may provide a possible background, it cannot, by itself, sustain a conviction or deny bail when other circumstances are not cogent. The alleged motive is based on strained personal relationships, but there is nothing on record to show that there was any recent quarrel, threat, or incident between the applicant and the deceased. Motive alone, in absence of corroborative material, cannot be conclusive.

7. As far as the theory of “last seen together” is concerned, the prosecution relies on the statement of witness Satyam Singh and CCTV footage. However, it is significant to note that the CCTV footage is post-incident and merely shows the applicant entering the office premises along with Satyam Singh and subsequently leaving the premises. It does not capture the actual commission of the offence. Moreover, the prosecution’s own case is that the incident occurred inside the cabin of the deceased, whereas witness Satyam Singh was allegedly present on the mezzanine floor. The possibility of others entering or exiting the cabin in that duration is not ruled out. Therefore, the circumstance of “last seen” is not clinching in the present facts.

8. Coming to the recovery of bloodstained T-shirt allegedly worn by the applicant, it is necessary to bear in mind that the CCTV footage does not show the applicant wearing any shirt bearing bloodstains at the relevant time. The learned Advocate for the applicant has rightly pointed out that the clothes seen in the footage are inconsistent with those allegedly recovered with bloodstains. The prosecution has not placed any forensic report to show whether the blood matches that of the deceased, nor is there

any link established between the recovered weapon and the injuries found on the deceased. The iron rod was found in a common passage near the cabin, accessible to others, and is not shown to bear any fingerprints or identifiable link with the applicant.

9. The so-called extra-judicial confession made by the applicant before witness Satyam Singh is weak evidence in itself. Such statements are often viewed with caution, particularly when made to persons not in authority or confidence. Therefore, without any corroboration, this alleged confession cannot carry much weight at this stage.

10. It is also material to note that the applicant has been in custody since 14 January 2024. The investigation is stated to be complete and charge-sheet has already been filed. No custodial interrogation is now required. The trial is likely to take considerable time. It is trite law that bail is the rule and jail is the exception, particularly where the case rests on circumstantial evidence, and where there is no likelihood of the accused tampering with evidence or fleeing from justice.

11. In this regard, it would be useful to refer to the decision of the Supreme Court in *Sharad Birdhichand Sarda v. State of Maharashtra*, (1984) 4 SCC 116, wherein it was held that in cases resting on circumstantial evidence, all circumstances must be firmly established and must form a complete chain ruling out all other possibilities. In the present case, prolonged custody without conclusive proof of guilt at this stage cannot be a ground for denial

of bail in circumstantial cases.

12. The applicant is a permanent resident of Navi Mumbai and has no criminal antecedents. There is no material to suggest that he may abscond or tamper with evidence. Reasonable conditions can be imposed to secure his presence during the trial.

13. Considering the totality of the facts and circumstances, nature of evidence, period of custody, and the settled principles of law, I am of the view that the applicant deserves to be enlarged on bail.

14. Hence, the following order :

(i) The Bail Application is allowed.

(ii) The applicant shall be released on bail in connection with Crime Register No. 9 of 2024 registered with NRI Sagari Police Station, Navi Mumbai. The applicant is charged for offences punishable under Sections 302 and 201 of IPC, upon furnishing a Personal Bond of ₹50,000/- (Rupees Fifty Thousand only) along with one or more solvent sureties in the like amount, to the satisfaction of the learned Trial Court, subject to the following conditions:

(a) The applicant shall not tamper with evidence, or directly or indirectly contact, influence, threaten, or intimidate any witness, particularly family members of the deceased.

(b) The applicant shall report to the NRI Sagari Police Station, Navi Mumbai on the first Monday of every month

between 10.00 a.m. and 12.00 noon, until further orders.

(c) The applicant shall not leave the territorial jurisdiction of the Trial Court without its prior written permission.

(d) The applicant shall not commit any offence or engage in any criminal activity during the pendency of the trial.

(e) The applicant shall, at the time of furnishing surety, provide his current residential address and mobile number to the Investigating Officer as well as the Trial Court, and shall inform the Court in writing of any change in residence or contact details during the pendency of the case.

(f) In case of any breach of the conditions mentioned above, the prosecution shall be at liberty to move for cancellation of bail.

15. The Bail Application stands disposed of in above terms.

16. In view of the disposal of the Bail Application, the interim application stands disposed of.

(AMIT BORKAR, J.)