

AGK

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

BAIL APPLICATION NO.581 OF 2025

Mohsin Hamid Mulani	... Applicant
V/s.	
State of Maharashtra	... Respondent

Mr. Veerdhawal Deshmukh for the applicant.

Mrs. Shilpa K. Gajare, APP for the respondent-State.

Mr. Subhash Dige, API, Panvel Taluka Police Station,
Navi Mumbai, is present.

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CORAM : AMIT BORKAR, J.

DATED : OCTOBER 13, 2025

P.C.:

1. By this application under Section 439 of the Code of Criminal Procedure, 1973, the applicant seeks regular bail in connection with Crime Register No. 259 of 2022 registered with Panvel Taluka Police Station for offences punishable under Sections 302, 404, 212, and 201 read with Section 34 of the Indian Penal Code, 1860, and Section 3(25) of the Indian Arms Act.

2. As per the prosecution, accused No.1 Mosin and the deceased Sanjay Karle were well acquainted and resided at Talegaon Dabhade. Accused No.1 Mosin and accused No.2, the present applicant, are friends. On the request of Sanjay, accused No.1 and the applicant purchased a country-made pistol for Rs.50,000 from absconding accused No.4 Birju. The deceased

Sanjay was engaged in the business of gold trading. Accused No.1 Mosin had given Rs.7 lakh to Sanjay to purchase gold bars, and Sanjay had promised to deliver two gold bars of 10 tolas each. However, Sanjay failed to fulfil the promise and avoided returning the amount or delivering the gold.

3. It is alleged that accused No.1 fired at the stomach and chest of Sanjay Karle with the pistol, resulting in his death. The dead body was kept in an Audi car, and the deceased's mobile phone was thrown into the Patalganga River. The gold bars were taken away by accused No.1 and the present applicant. Thereafter, both accused visited Mayur Jewellers at Panvel and sold the gold bar for Rs.4,95,000. The present applicant and accused No.3 Rohit Kanitkar are cousins. Accused No.3 was aware that the murder had been committed by accused No.1 and the applicant. Despite this, he arranged for their stay in a hotel at Koparkhairane, Navi Mumbai. It is alleged that Rs.4 lakh in cash and two firearms were handed over to accused No.3. Later, Rs.1 lakh was recovered from the stepfather of accused No.3, and the firearms were handed to accused No.4, who destroyed them by dumping them in a dustbin at IG Park Building, Karanjade.

4. The prosecution alleges that all the accused conspired together and committed the offence of murder, misappropriation of gold, harbouring of offenders, and destruction of evidence. Accordingly, an FIR came to be lodged.

5. The learned Advocate for the applicant relied on an order passed by a coordinate Bench of this Court in Bail Application No.

3891 of 2023, and submitted that the role attributed to the accused in that case and the material considered therein are similar to the role and material alleged against the present applicant. It was contended that the prosecution case rests entirely on circumstantial evidence. The alleged motive is that the pistol procured by the applicant was of poor quality, which led to a quarrel between the deceased and the applicant, during which the applicant allegedly fired the shot. It was further submitted that the statement of the rickshaw driver, who is said to have picked up the applicant and co-accused Nos.1 and 2, cannot be relied upon, since the place of pick-up was nearly 10 to 15 kilometres away from the place of the incident. Relying on the Sessions Court's observations in the order dated 10 January 2025, learned counsel pointed out that as per the FSL report, the bullet recovered from the deceased was fired from a country-made pistol; however, the weapon recovered from the applicant is not a country-made pistol. It was therefore urged that the applicant deserves to be released on bail.

6. On the other hand, the learned APP opposed the bail application. She submitted that the role of the applicant and the evidence considered by the coordinate Bench are not identical. The pistol and cartridges were recovered from the applicant. The statement of the rickshaw driver recorded during investigation shows that accused Nos.1 and 2 were seen together after the incident, and that the applicant was present at the time of selling the gold bar to the jeweller. This, according to the prosecution, directly links the applicant to the offence. The learned APP therefore submitted that sufficient material is available on record

to justify the continued custody of the applicant pending trial.

7. On careful consideration of the material placed on record, this Court finds that the case rests primarily on circumstantial evidence. The entire prosecution story hinges on the chain of circumstances which, at this stage, does not appear to be so complete as to conclusively point towards the guilt of the applicant. There is no direct eye-witness to the incident.

8. The main allegation against the applicant is of his participation in the offence along with accused No.1 Mosin. However, the role of the applicant is not clearly distinguished from that of the principal accused. The prosecution has alleged that the applicant procured a pistol from absconding accused No.4, and that the said pistol was used in the offence. The FSL report, however, indicates that the bullet recovered from the body of the deceased was fired from a country-made weapon, while the pistol seized from the applicant is not a country-made weapon. This creates a serious doubt, at least at this stage, as to whether the weapon allegedly recovered from the applicant was the same weapon used in the crime.

9. Further, the prosecution relies on the statement of a rickshaw driver to establish the movement of the accused after the incident. The reliability of this statement is doubtful because the place from where the rickshaw driver claims to have picked up the applicant and co-accused is located at a distance of 10 to 15 kilometres from the alleged place of incident. The prosecution has not placed any material corroborating this version.

10. It is also relevant that the coordinate Bench of this Court has granted bail to another accused in Bail Application No. 3891 of 2023, whose role, as stated by the learned counsel for the applicant, is substantially similar to that of the present applicant. The prosecution has not been able to demonstrate any material distinction between the two cases warranting a different view.

11. The investigation in the present case is complete. The charge sheet has been filed. The applicant has been in custody for a considerable period. No further recovery is to be effected from him. Continued incarceration will serve no further purpose, as the trial is likely to take time.

12. Having regard to the nature of evidence, the period of custody undergone, the completion of investigation, and the parity with co-accused, this Court finds that the applicant has made out a case for grant of bail. The apprehension expressed by the prosecution that the applicant may tamper with evidence or influence witnesses can be addressed by imposing suitable conditions.

13. Hence, in the interest of justice, the applicant deserves to be enlarged on bail, subject to such terms and conditions as may ensure his presence during trial and prevent interference with the prosecution evidence.

14. Hence, following order is passed:

- i) The bail application is allowed;
- ii) The applicant is directed to be released on regular bail

in connection with Crime Register No.259 of 2022 registered with Panvel Taluka Police Station for offences punishable under Sections 302, 404, 212, 201 read with 34 of the Indian Penal Code, 1860 read with Section 3(25) of the Indian Arms Act, upon furnishing a personal bond of Rs.50,000/- (Rupees Fifty 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) On being released on bail, the applicant shall furnish his cell phone number and residential address to the Investigating Officer and shall keep the same updated, in case of any change thereto;
- (b) The applicant shall report to the Panvel Taluka Police Station once in every week i.e. on every Sunday between 11.00 a.m. and 1.00 p.m. until conclusion of the trial;
- (c) The applicant shall not directly or indirectly make inducement, threat, or promise to any person acquainted with the facts of the case, so as to dissuade such a person from disclosing the facts to the or to any Police personnel;
- (d) The applicant shall not tamper with the prosecution evidence and shall not contact or influence the Complainant or any witness in any manner;
- (e) The applicant shall attend the trial regularly. The applicant shall co-operate with the Trial Court and shall not seek unnecessary adjournments threat;

(f) The applicant shall surrender his passport, if any, to the Investigating Officer.

15. The bail application is allowed and disposed of accordingly.

16. It is clarified that the Trial Court shall decide the same on its own merits, uninfluenced by the *prima facie* observations made in this order.

(AMIT BORKAR, J.)