

Ajay

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

**CRIMINAL BAIL APPLICATION NO. 642 OF 2025**

Sonu Paras Rajbhar

.. Applicant

**Versus**

The State of Maharashtra

.. Respondent

- .....
- Mr. Mithilesh Mishra a/w. Mr. Agastya Desai, Advocates for Applicant.
  - Ms. Savita M. Yadav, APP for Respondent – State.
- .....

**CORAM : MILIND N. JADHAV, J.**

**DATE : APRIL 30, 2025.**

**P.C.:**

**1.** Heard Mr. Mishra, learned Advocate for Applicant and Ms. Yadav, learned APP for Respondent – State.

**2.** This is an Application under Section 439 of Code of Criminal Procedure, 1973 (for short ‘Cr.P.C.’) seeking Bail in connection with C.R. No.1157 of 2022 registered with Worli Police Station for offences punishable under Section 302 of the Indian Penal Code, 1860 (for short ‘IPC’).

**3.** On 18.02.2025, after hearing the learned Advocates, I had passed the following order:-

*“1. Heard Mr. Sharma, learned Advocate for Applicant and Mr. Karmakar, learned APP for Respondent – the State of Maharashtra.*

*2. This is an Application under Section 439 of Code of*

*Criminal Procedure, 1973 (for short 'Cr.P.C.') seeking Bail in connection with C.R. No.1157 of 2022 registered with Worli Police Station for offences punishable under Section 302 of the Indian Penal Code, 1860 (for short 'IPC').*

*3. Applicant is incarcerated for more than 2 years for offence punishable under Section 302 of IPC.*

*4. Mr. Sharma would inform the Court that incident occurred at construction site where both Applicant and victim knew each other and at 11:00 p.m. in night the scuffle ensued between them, the motive of which has not been brought on record. He would argue that the incident was the alleged scuffle between the parties where Applicant in fit of rage took a brick lying nearby and inflicted three blows on the head of victim leading to serious injury and death of victim. He would submit that victim was moved to hospital 4 hours after the happening of incident at about 02:00 a.m. in the night.*

*5. All that he would submit is that 2 years incarceration period and no motive been escribed to skirmish or scuffle ensued and it been happened on spur of moment are the only reasons which shall be considered for grant on bail. He would submit that Applicant had no antecedents whatsoever. Age of Applicant is 18 years whereas age of victim is 19 years old as informed at the time of incident.*

*6. Mr. Karmakar, learned APP appears for Respondent – State of Maharashtra. Copy of Application shall be served on prosecution forthwith. Mr. Karmakar shall take appropriate instructions and apprise the Court on the next adjourned date.*

*7. Stand over to 25<sup>th</sup> March, 2025 at 02.30 p.m.”*

**4.** Today, Ms. Yadav, learned prosecutor appearing in the Application would persuade the Court to consider that the crime in question led to death of victim in view of Applicant having inflicted 3 blows with paver block on his head very well knowing that it would cause a fatal injury. She would fairly inform Court that motive for the crime as emanating from prosecution record was denial of request for charger by victim that enraged the Applicant. She would also fairly inform Court that as noted by Court in the above order, both Applicant

and victim being friends were intoxicated at the time of incident as they both were together at that time at the construction site.

**5.** *Prima facie* on considering the fact both Applicant and victim were intoxicated at the time of occurrence of incident and incident having been noticed by-standers / eye witnesses near the construction site and Applicant after inflicting the blows on victim's head not leaving the said site for the next 4 hours being intoxicated itself makes out a ground for Court to consider case of Applicant for grant of bail.

**6.** One of the other reason which impels the Court to consider the case of Applicant is because Applicant is a young offender who was merely 18 years old at the time of incident. In this age if the Applicant is incarcerated any further since he has already seen the daylight of prison life for the past 2 and 1/2 years, it may lead him on to the path of criminality.

**7.** Considering Applicant's age and if he is enlarged on bail Court is hopeful that Applicant's family will undoubtedly do their duty to make every effort and attempt to reform and aid the Applicant in leading a reformed life while on bail rather than keep him in prison and expose him to criminal outlook and life in prison. However on the flip side, if a chance is given to the Applicant because of his young age by enlarging him on bail, there is a possibility that he will be remorseful and repent in retrospect. This is a chance required to be

taken by the Court because punishment has to be believed to be inflicted for a reformatory result rather than being punitive in nature.

**8.** Undoubtedly the trial will determine the punishment for the offence. While considering Bail Application in such facts, Court feels that reform and rehabilitation of the under trial accused needs to be considered especially when age of the accused is young so that the accused gets an opportunity / or is given an opportunity to reform, rehabilitate and earn his livelihood honorably from the perspective of social integration. This is a chance which the Court must take considering the young age of accused. By considering this Court is not stamping approval of any of the actions of Applicant regarding the crime in question. Court is also equally conscious of the offence. The age of the Applicant is very young. If the Applicant is incarcerated in prison further, there is every possibility that he might lose faith in the institution and society at large and may tread the path of criminality or would waste his life. Incarceration in prison statistically shows that it exposes many youth to abuse.

**9.** There are several harms of incarceration which are inflicted disproportionately on the youth. This is the reason why Court feels that any / every semblance of a chance towards a reformatory approach in punishment should be adopted, especially in the case of young offenders. Hence every opportunity or to that extent risk should be

constructively taken by the Court in the case of young offenders – accused before committing such accused to further custody and give such accused an opportunity to become a good citizen in the Society. These observations are only in the view of the young age of the Applicant before me and it is only a means to explore an alternative to incarceration so that the Applicant can become a good citizen.

**10.** His further incarceration in prison in opinion of the Court would expose him to the world of criminality which needs to be avoided and in that view of the matter Applicant can be released on bail.

**11.** Hence, Bail Application is allowed subject to the following terms and conditions:-

- (i) Applicant is directed to be released on bail on furnishing P.R. Bond in the sum of Rs.10,000/- with one or two sureties in the like amount;
- (ii) Before his actual release from jail, Applicant shall furnish his address where he proposes to reside after his release from jail to the concerned Police Station and also to the trial Court;
- (iii) After his release from jail, Applicant shall report to the Investigating Officer as and when called for;

- (iv) Applicant shall attend the trial Court on first Tuesday of every month between 11.00 a.m. and 1.00 p.m. to mark his presence. If the first Tuesday of the said month falls on a holiday and / or non Court working day, the Applicant shall mark presence on the next working day;
- (v) Applicant shall co-operate with the conduct of trial and attend the trial Court on all dates unless specifically exempted and will not take any unnecessary adjournments, if he does so, it will entitle the prosecution to apply for cancellation of this order;
- (vi) Applicant shall not leave the State of Maharashtra without prior permission of the Trial Court;
- (vii) Applicant shall not influence any of the witnesses or tamper with the evidence in any manner; and
- (viii) In case of any infraction of the above conditions and / or two consecutive defaults in marking his attendance before trial Court, it shall attract the provisions of Section 439(2) of Cr.P.C. i.e. for cancellation of bail.

**12.** It is clarified that the observations made in this order are limited for the purpose of granting bail only and I have not made any observations on merits of the case. The trial shall be adjudicated on

the strength of the evidence led and strictly on its own merits being uninfluenced with any of the *prima facie* observations made herein above in this order.

**13.** Bail Application is allowed and disposed.

[ MILIND N. JADHAV, J. ]

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