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

BAIL APPLICATION NO.922 OF 2025

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RAMESH
JADHAV

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Prabhuling Pundlik Jamadar

... Applicant

V/s.

State of Maharashtra

... Respondent

Mr. Aniket Vagal with Ms. Savvy Kalhekar and Juhi Kadu for the applicant.

Ms. Mahalaxmi Ganapathy, APP for the State.

CORAM : AMIT BORKAR, J.

DATED : JUNE 30, 2025

P.C.:

1. This is an application filed by the applicant under Section 439 of the Code of Criminal Procedure, 1973, seeking regular bail in connection with Crime No. I-1343 of 2024 registered at Shantinagar Police Station, Bhiwandi. The offence alleged against the applicant is under Section 302 read with Section 34 of the Indian Penal Code, 1860.

2. The brief facts of the prosecution case, as gathered from the First Information Report (FIR), are that the complainant resides with her family. Her brother Raju is also staying with her and is gainfully employed. Another brother of the complainant, namely Rakesh Wangunti, is stated to be an autorickshaw driver, residing separately at Sambre Chawl, Sangam Pada Road, Bhiwandi.

3. It is alleged that on 23rd June 2024 at around 6:00 p.m., Raju received a call from Rakesh. Rakesh informed Raju that he had gone to their mother's open plot situated at Ramnagar, Bhiwandi. There, he noticed that the applicant Rajesh Jamdar and another person Prabhuling Jamdar had thrown garbage in the said plot. When Rakesh asked them to remove the garbage, a quarrel took place between them. It is further alleged that during the said quarrel, the applicant physically assaulted Rakesh with an iron rod. Rakesh disclosed this incident to his brother Raju. Thereafter, Rakesh visited IGM Hospital, received some medicines, and returned to his house.

4. Later, on 29th June 2024 at about 7:00 p.m., a girl named Hitanshi Jain called the complainant and informed that Rakesh had been admitted to Prajakta Hospital, situated at Chhatrapati Shivaji Chowk, Bhiwandi. The complainant immediately rushed to the hospital and reached there by 7:30 p.m. Rakesh was found admitted in the Intensive Care Unit (ICU). The doctor informed the complainant that Rakesh had sustained injuries and his condition was serious. The doctor advised that the patient be shifted to Chhatrapati Shivaji Maharaj Hospital, Kalwa. Accordingly, the complainant arranged for an ambulance to shift Rakesh to Kalwa Hospital. However, Rakesh expired during transit.

5. Thereafter, the complainant went to the police station and lodged a report alleging that the applicant was responsible for causing the death of her brother. Based on this report, the present crime was registered and investigation commenced.

6. Learned Advocate appearing for the applicant submitted that the entire case of the prosecution rests on the dying declaration and some supporting material. It is contended that even the dying declaration only attributes a common role to the applicant and the co-accused. The weapon alleged to have been used—iron rod—has not been recovered from the applicant but from the co-accused. Attention is drawn to Clause 17 of the postmortem report, which only notes abrasions and not grievous internal injuries. It is further pointed out that the death occurred nearly six days after the alleged incident, and hence the causal link between the injury and death may not be direct. It is submitted that the applicant has been falsely implicated and that he may be granted bail.

7. On the other hand, learned APP opposed the application. It was submitted that the dying declaration appears to be voluntary, truthful and consistent, and may be sufficient to sustain a conviction, subject to trial. It was submitted that the final cause of death is still awaited as the chemical analysis (CA) report is pending. It is further submitted that in view of the seriousness of the offence and the role attributed to the applicant, no case is made out for grant of bail.

8. Upon considering the rival submissions, and after perusing the record and the papers of investigation, the following aspects emerge:

- (i) The prosecution case is primarily based on the oral dying declaration of the deceased, which is yet to be tested during trial. No Magistrate has recorded a formal dying declaration.

(ii) The alleged incident of assault took place on 23rd June 2024, whereas the death occurred on 29th June 2024, i.e., after a gap of nearly six days.

(iii) Clause 17 of the post-mortem report, as pointed out by the learned advocate, reflects only superficial abrasions. The final cause of death is still awaited, as the chemical analysis report is not yet received.

(iv) The iron rod alleged to be the weapon of assault is stated to have been recovered from the co-accused, not from the present applicant.

(v) The applicant is in custody since the date of arrest and has no serious criminal antecedents reported. The investigation appears to have progressed substantially, and custodial interrogation of the applicant is no longer required.

(vi) The trial is likely to take time, and further detention of the applicant will serve no fruitful purpose, particularly when the chain of causation between the alleged assault and the death is yet to be conclusively established.

In light of the above facts and circumstances, and keeping in view the principle that bail is the rule and jail is the exception, this Court is of the view that the applicant deserves to be released on bail with appropriate conditions.

9. Hence, the following order is passed.

10. The applicant Prabhuling Pundlik Jamadar is directed to be released on bail in connection with Crime No.I-1343 of 2024,

registered at Shantinagar Police Station, Bhiwandi for offences punishable under Sections 302 read with 34 of the Indian Penal Code, 1908, 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 Shantinagar Police Station, Bhiwandi 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.)