

Shabnoor

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

BAIL APPLICATION NO.984 OF 2025

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Wahid Yakub Ansari @ Vijay Ansari	... Applicant
V/s.	
State of Maharashtra	... Respondent

Mr. Arvind M. Bhalerao a/w Vinit Patil, for the applicant.

Ms. Supriya I. Kak, APP for the State – respondent.

Mr. Sudesh D. Markande, PSI, Ghatkopar Police Station.

CORAM : AMIT BORKAR, J.

DATED : JULY 7, 2025

P.C.:

1. The present application is filed by the applicant under Section 439 of the Code of Criminal Procedure, 1973, seeking regular bail in connection with Crime Register No. 130 of 2020 registered with Ghatkopar Police Station. The applicant is facing serious charges under Sections 302 (murder), 307 (attempt to murder), 143 (unlawful assembly), 147 (rioting), 148 (rioting with deadly weapon), and 149 (common object) of the Indian Penal Code, 1860. Additionally, the provisions of Section 37(1) read with Section 135 of the Maharashtra Police Act, as well as Sections 4 and 25 of the Indian Arms Act, have also been invoked against him.

2. As per the case of the prosecution, the First Information Report (FIR) was lodged by one Sanjay Krishna. He has stated that on the evening of 17th February 2020, around 9:00 p.m., when he came out of his house, he saw the applicant and co-accused Vijay Ansari, Mangesh Agarwal, Sandesh Agarwal, Rahul Sakpal, and Sanjay Ansari involved in a quarrel and attacking two individuals – Sushil Sonawane and Amol Dongre – using dangerous weapons such as swords and sticks.

3. When the informant tried to intervene and rescue the victims, he witnessed Yusuf (one of the accused) strike Sushil with a tile on his head. Vijay also picked up another tile and hit Sushil on the head. Mangesh used a bat to hit Amol, while Vijay, Mangesh, Sandesh, Rahul, and Sanjay collectively assaulted the victims with sticks. When Amol tried to run for safety, Yusuf allegedly attacked him with a sword, but the blow was deflected, resulting in injuries to Amol's fingers. Suhasini, the wife of the informant, also tried to intervene, but the applicant allegedly attacked her with a sword. The applicant further threatened to kill anyone who attempted to interfere.

4. The applicant was arrested in connection with the said offence. It appears that his earlier bail application before the learned Sessions Court was rejected. He has now approached this Court seeking regular bail.

5. Learned counsel appearing for the applicant submits that the present case involves group violence where multiple accused persons were allegedly involved. It is submitted that as per the

prosecution's own case, the assault on deceased Sushil was by Yusuf, while the applicant is said to have assaulted Sanjay on the head and Amol with a stick. The learned counsel has further pointed out that Yusuf – who allegedly caused the fatal injury to Sushil – has already been released on bail. Additionally, except for one co-accused Mangesh, all others have been granted bail. It is also urged that the applicant has been in custody since 17th February 2020 – more than five years – and despite the long duration, only one out of the 34 prosecution witnesses has been examined so far. Hence, it is submitted that the trial is not likely to conclude in the near future, and continued incarceration of the applicant would cause undue hardship. Relying on the principle of parity with co-accused who have been granted bail, the applicant prays for his release on similar terms.

6. 4. On the other hand, the learned Additional Public Prosecutor (APP) has strongly opposed the bail plea. She has drawn the attention of this Court to the order of the learned Sessions Judge, wherein it is recorded that co-accused Yusuf, who was earlier released on bail, is now involved in another serious offence under Section 302 of the IPC. This, according to her, indicates a possibility of misuse of liberty, if bail is granted. It is further submitted that the applicant was not a mere bystander, but an active participant in the unlawful assembly. He is alleged to have assaulted both Sanjay and Amol and was armed with a deadly weapon – a sword. The prosecution alleges that the incident was a group attack with a common intention, and therefore, the role of each accused must be seen in light of Section

149 IPC, which makes every member of an unlawful assembly vicariously liable for the acts committed in prosecution of the common object. Therefore, the learned APP argues that in view of the gravity of the offence, and the applicant's role in the incident, he is not entitled to be released on bail at this stage.

7. I have considered the submissions made on behalf of the applicant as well as the learned APP for the State. I have perused the FIR, the nature of allegations, the role attributed to the applicant, and the overall progress of the trial.

8. From the record, it is seen that the incident occurred in the context of a group fight where multiple accused persons were involved. The role attributed to the present applicant is that he assaulted two persons – Sanjay and Amol – one with a sword and the other with a stick. The fatal injury to deceased Sushil is, however, attributed to co-accused Yusuf, who was allegedly the main assailant. It is not the prosecution's case that the applicant inflicted the fatal blow.

9. It is further not in dispute that the applicant is in custody since 17th February 2020, and as of today, he has undergone more than five years of incarceration as an undertrial prisoner. The charge-sheet has been filed, and there are 34 witnesses cited by the prosecution, of which only one witness has been examined till date. This shows that the trial is likely to take a considerable amount of time for completion.

10. Moreover, co-accused Yusuf, who is alleged to have caused the death of Sushil, has already been released on bail. Except

Mangesh, all other co-accused have also been granted bail. Thus, the case of the present applicant stands on similar footing, and the principle of parity comes into play.

11. While it is true that Yusuf is stated to have committed another offence after being released on bail, the same cannot be held against the present applicant in absence of any specific material to show likelihood of misuse of liberty by him. There is no material to indicate that the applicant has any criminal antecedents or that he has attempted to tamper with evidence or influence witnesses.

12. Considering the long period of custody, the slow progress of trial, the principle of parity, and absence of direct attribution of fatal blow, I am of the opinion that a case is made out for grant of bail.

13. In view of the above discussion, the following order is passed:

(a) The Bail Application is allowed.

(b) The applicant, shall be released on bail in connection with Crime Register No. 130 of 2020 registered with Ghatkopar Police Station for offences punishable under Sections 302, 307, 143, 147, 148, 149 of the IPC, Sections 37(1) and 135 of the Maharashtra Police Act, and Sections 4 and 25 of the Indian Arms Act, upon furnishing a Personal Bond of ₹25,000/- (Rupees Twenty-Five 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:

(c) The applicant shall not tamper with evidence, or directly or indirectly contact, influence, threaten, or intimidate any witness.

(d) The applicant shall report to the Ghatkkopar Police Station, on the first Monday of every month between 10.00 a.m. and 12.00 noon, until further orders.

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

(f) The applicant shall not enter the jurisdiction of Ghatkkopar jurisdiction.

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

(g) 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.

14. The Bail Application is accordingly disposed of in above terms.

(AMIT BORKAR, J.)