

AGK

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

BAIL APPLICATION NO.985 OF 2025

Santosh @ Rohit Ramesh Gupta	... Applicant
V/s.	
The State of Maharashtra	... Respondent

Mr. Mahesh M. Funde for the applicant.

Ms. Pallavi N. Dabholkar, APP for the State.

Mr. Shahu Popat Kaldade, PSI, Ambernath Police Station, is present.

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CORAM : AMIT BORKAR, J.

DATED : JUNE 24, 2025

P.C.:

1. 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.339 of 2024 registered with Ambernath Police Station. The applicant is alleged to have committed offences punishable under Sections 302 and 34 of the Indian Penal Code, 1860.

2. As per the case of the prosecution, it is alleged that Accused No.1 was having an illicit relationship with the wife of the deceased. On account of such illicit relationship, Accused No.1 allegedly hatched a criminal conspiracy to eliminate the deceased. It is the case of the prosecution that in pursuance of such

conspiracy, Accused No.1, by taking assistance of the present applicant and other co-accused, committed the murder of the deceased.

3. The applicant came to be arrested on 28th February 2024 in connection with the said offence.

4. The primary circumstance relied upon by the prosecution against the applicant is the 'last seen' circumstance. It is alleged that the applicant was last seen in the company of Accused No.1 and other co-accused at a lodge, which is situated at a distance of approximately 5 kilometres from the spot where the incident of murder took place.

5. Learned Advocate appearing for the applicant has submitted that except the alleged circumstance of the applicant being last seen in the company of Accused No.1, there is no other material brought on record to directly connect the applicant with the actual commission of the offence. It is further submitted that the applicant has no prior criminal record and has roots in society. It is also submitted that Accused No.1, who is alleged to be the mastermind and had an illicit relationship with the wife of the deceased, has already been granted bail on medical grounds. On these grounds, the applicant has prayed for being released on regular bail.

6. On the other hand, learned Additional Public Prosecutor has opposed the bail application. It is submitted that the role of the present applicant is not only limited to being seen last in the company of the accused, but it is also alleged that the applicant

actively participated in the assault and murder of the deceased as per the instructions of Accused No.1. The prosecution has expressed concern that if the applicant is released on bail, it may hamper the further course of investigation and may also create fear in the minds of witnesses.

7. I have heard the learned Advocate for the applicant and the learned APP for the State. I have also perused the case papers, including the FIR and the documents relied upon by the prosecution.

8. The main allegation against the present applicant is that he was last seen in the company of Accused No.1 and other co-accused at a lodge situated about 5 kilometres away from the spot of the incident. It is pertinent to note that the alleged incident of murder is not stated to have taken place at the said lodge, and no direct evidence is brought on record till now to show that the applicant participated in the actual act of assault or killing of the deceased.

9. The case of the prosecution is primarily based on circumstantial evidence. The law is well settled that when the case is based on circumstantial evidence, each circumstance must be cogent, complete, and conclusively point towards the guilt of the accused. At this stage, except the circumstance of "last seen," no other incriminating material is shown to directly connect the applicant with the commission of the offence.

10. It is also not the case of the prosecution that any recovery has been made at the instance of the present applicant. No weapon

is stated to have been recovered from him. The alleged illicit relationship between Accused No.1 and the wife of the deceased is not attributable to the applicant in any manner.

11. The applicant is in custody since 28th February 2024. No criminal antecedents are reported against him. Accused No.1, who is allegedly the mastermind of the entire incident, has already been released on bail on medical grounds. Though parity in strict sense may not apply where roles are distinct, the Court cannot ignore that the main accused has been enlarged on bail.

12. The trial is likely to take considerable time. The investigation appears to be substantially completed and chargesheet is already filed. There is no material placed on record to show that the applicant, if released on bail, will abscond or tamper with the prosecution witnesses.

13. In view of the above circumstances, and considering that the evidence against the applicant is at present only in the form of last seen, a case is made out for granting bail to the applicant. Stringent conditions can be imposed to ensure his presence during trial and to safeguard the interest of justice.

14. Hence, following order:

- i) The bail application is allowed;
- ii) The applicant is directed to be released on regular bail in connection with Crime Register No.339 of 2024 registered with Ambernath Police Station for offences punishable under Sections 302 and 34 of the Indian Penal Code, 1860, on his

executing a personal bond in the sum of ₹25,000/- (Rs. 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 report to Ambernath Police Station on the first Monday of every month between 10:00 a.m. and 12:00 noon, until further orders.
- b) The applicant shall not tamper with the evidence or attempt to contact or influence any witness, directly or indirectly.
- c) The applicant shall appear before the Trial Court on every date of hearing, unless prevented by a sufficient and valid cause.
- 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.
- f) Any breach of these conditions shall result in the prosecution moving for cancellation of bail before the Trial Court.

15. The bail application stands disposed of in above terms.

(AMIT BORKAR, J.)