

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

CRIMINAL BAIL APPLICATION NO. 1228 OF 2025

Sopan Babu Mabhanto @ Babu Kaikadi ... Applicant

Vs.

The State of Maharashtra ... Respondent

Mr. Gaurav Parkar, Advocate for the Applicant.

Ms. M. H. Mhatre, APP for Respondent/State.

CORAM : ASHWIN D. BHOBE, J.

DATE : 18th AUGUST, 2025.

P.C. :

1. Heard Mr. Gaurav Parkar, learned Advocate for the Applicant and Ms. M. H. Mhatre, learned APP for the State.

2. By the present Application, Applicant is seeking bail in Crime No. I-291 of 2018 registered with Panvel City Police Station for the offences punishable under Sections 302, 324, 323, 504, 506 r/w 34 and 120-B of IPC. Said crime is registered as Sessions Case No. 427 of 2019 (Old Sessions Case No. 119 of 2018) and is pending before the Court of the Additional Sessions Judge, Panvel-Raigad.

3. There are 6 Accused in the present crime. Applicant is Accused No. 2.

4. FIR was registered on the basis of complaint lodged by Shakil Salim Shaikh (deceased), who was an auto rickshaw driver. Ajinkya Shinde (Accused No.1), having hired the auto rickshaw driven by the

deceased Shakil, refused to pay the fare. Said dispute resulted in an altercation and thereafter into a fight in which deceased Shakil was assaulted at the hands of the Accused persons. Initially, offence was registered under Section 307 read with Section 34 of IPC. Shakil succumbed to the injuries, as a result of which Section 302 read with Section 34 of IPC was added to Crime No.I-291 of 2018.

5. Applicant was arrested on 1st July, 2018. Bail Application at Exhibit-71 filed by the Applicant in Sessions Case No.427 of 2019 was rejected by the Additional Sessions Judge, Panvel District Raigad on 23rd December, 2021.

6. Mr. Gaurav Parkar, learned Advocate for the Applicant, submits that the dispute was essentially between Accused No.1 and deceased Shakil on account of the auto rickshaw fare charged by deceased Shakil. Applicant was accompanying Accused No.1 at the time of the fight. He submits that the fight was at the spur of the moment. He submits that the Applicant had no intention to kill or commit murder of deceased Shakil. Mr. Gaurav Parkar, has restricted the present Application on the ground of Applicant's long incarceration and denial of Applicant's rights to speedy trial. He submits that the Applicant is incarcerated for a period of almost 7 years and 1 month. He submits that though the charge was framed on 21st October, 2022, till date the prosecution has examined a single witness, that to a panch witness. He submits that the said panch witness was examined in the year 2023. He submits that Accused No.1 in the present crime is released on bail. vide order dated 17th April, 2024 passed in Criminal Bail Application No.779 of 2024 (page No. 231 to 234).

7. Ms. M. H. Mhatre, learned APP for the State submits that the Applicant and Accused No.1 were the main assailants in the said crime, which resulted in the death of deceased Shakil. She, however, does not dispute that the Applicant was arrested on 1st July, 2018 and has remained in custody since then.

8. Perused the record with the assistance of the learned Advocates for the parties.

9. It is trite law that prolonged incarceration pending conclusion of trial is clearly violative of right guaranteed under Article 21 of the Constitution of India, which has been construed to right of fair as well as speedy trial. Applicant is in jail since 1st July, 2018. Crime No.I-291 was registered in the year 2018. Till date, prosecution has examined one witness. Said witness was examined in the year 2023. Trial of Sessions Case No.427 of 2019 is proceeding at a very slow pace and the same would certainly prolong. Applicant cannot continue to be incarcerated as an under-trial, indefinitely, in the present case for 7 years and one month. In the facts and circumstances of the case Applicant would be justified in pressing his right of denial of speedy trial. It is on the sole ground of long incarceration that this Court is constrained to enlarge the Applicant on bail.

10. Mr. Gaurav Parkar, learned Advocate for the Applicant, on instructions from the Applicant submits that the Applicant shall stay out of the jurisdiction of Panvel City till the conclusion of trial of Sessions Case No. 427 of 2019. Statement accepted.

11. In view of the above, Criminal Bail Application is allowed on the following conditions:-

(a) Applicant is directed to be released on bail in connection with Crime No.I-291 of 2018, registered with Panvel City Police Station, upon furnishing P.R. Bond in the sum of Rs.25,000/- each with one or two local sureties each in the like amount, to the satisfaction of the Additional Session Judge, Panvel-Raigad.

(b) Applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with facts of the case so as to dissuade such person from disclosing the facts to the Court or any police officer and should not tamper with evidence.

(c) Applicant upon release, within 3 days shall furnish to the Investigating Officer, Panvel Police Station, his residential addresses with proof and the contact numbers and to keep the Investigation Officer intimated about the change in the same from time to time.

(d) Applicant shall attend the trial in Sessions Case No. 427 of 2019 pending before the Trial Court regularly on every date, unless exempted by the Trial Court.

(e) Applicant shall not enter the territorial jurisdiction of Panvel City Police Station District, Raigad till the conclusion of the trial in Sessions Case No. 427 of 2019.

12. Criminal Bail Application No. 1228 of 2025 is disposed off in the above said terms..

(ASHWIN D. BHOBE, J.)