

Shabnoor

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

BAIL APPLICATION NO.1376 OF 2025

Ramtej @ Vimallesh Gauua Rama Yadav ... Applicant

V/s.

The State of Maharashtra ... Respondent

Mr. Pranay Saraf for the Applicant.

Mrs. Mahalakshmi Ganapathy, APP for the State – respondent.

CORAM : AMIT BORKAR, J.

DATED : AUGUST 20, 2025

P.C.:

1. The present bail application has been filed by the applicant under Section 439 of the Code of Criminal Procedure, 1973, seeking his release on bail in connection with Crime Register No. 160 of 2021 registered with Navghar Police Station. The applicant stands charged for offences punishable under Section 302 read with Section 34 of the Indian Penal Code, 1860.

2. The prosecution case, as it emerges from the charge-sheet, may briefly be stated thus. On 6th March 2021, at about 6:30 a.m., the complainant, a Police Sub-Inspector on patrol duty, was stopped near Navghar Naka by a journalist named Rohit Saroj Thakur of Y.N.D., who informed him that an unconscious person was lying at the municipal ground opposite S.N. College. The complainant, accompanied by Police Constable Nivale, rushed to the spot and found a male person, approximately 25 years of age, lying face down on the ground. He was wearing a dark blue T-shirt and blue jeans. The said person was immediately shifted to Temba

Hospital, where he was declared dead on arrival.

3. The preliminary inquiry revealed that a group of individuals from the Indira Nagar area had suspected two persons of theft and had severely assaulted them. One of those victims, Viky @ Abhishek Singh, was brought to the police station by 3–4 individuals who admitted to having beaten him. On being questioned, Viky disclosed that the group had also assaulted another person near the “Shamshan Bhoomi” (burial ground), placed him in an auto-rickshaw, and later abandoned him at the municipal ground near S.N. College, where the assault was continued. The complainant identified the assailants as Chaabi, Lala, Kalia, and the present applicant. During interrogation, the applicant himself admitted to participating in the assault, along with co-accused Chirag Thakur, Lala, and Chaabi. It is alleged that the accused used sticks and a leather belt to inflict blows, resulting in the death of the unknown victim. On the basis of these facts, an FIR was registered and charge-sheet came to be filed against the applicant and other co-accused for the aforesaid offences.

4. The learned Advocate appearing on behalf of the applicant submitted that although the applicant is alleged to have been part of the assault, the identification of the accused persons by eyewitnesses is doubtful and unreliable. He pointed out that the eyewitnesses were situated at some distance from the place of occurrence and that there was inadequate lighting at the relevant time, which would make clear identification improbable. He further submitted that the applicant had no motive whatsoever to commit the alleged offence. The applicant has been in custody

since 6th March 2021. The investigation is complete, and the charge-sheet has already been filed.

5. He further contended that one of the co-accused in the same case has already been granted bail by this Court in Bail Application No. 815 of 2024, decided on 12th June 2025, and therefore, the principle of parity should apply in favour of the present applicant. In support of his submissions, reliance was placed on the decisions of the Supreme Court in *Balwinder Singh vs. State of Punjab*, SLP (Crl.) No. 8523 of 2024 and *Paras Ram Vishnoi vs. The Director, CBI*, SLP (Crl.) No. 693 of 2021, to urge that prolonged incarceration coupled with completion of investigation are strong grounds for granting bail. He, therefore, prayed that the applicant be released on bail.

6. Per contra, the learned APP opposed the application and submitted that the offence is of a grave and heinous nature. The deceased, a poor and helpless individual, was mercilessly beaten by the applicant and co-accused, not once but at two different locations. She pointed out that the deceased was forcibly shifted in an auto-rickshaw from one spot to another and the assault continued thereafter, which shows premeditation and cruelty.

7. The learned APP further pointed out that one of the co-accused had recorded the entire incident on a mobile phone, which clearly depicts that the deceased was continuously assaulted with wooden sticks and a leather belt for about two hours, resulting in grievous injuries which turned fatal. CCTV footage also corroborates the prosecution case and shows the applicant and

another co-accused dragging and assaulting the deceased towards the burial ground. An eyewitness has categorically stated that the incident was visible and that there was sufficient lighting at the spot to recognize the assailants.

8. The Post-Mortem Report reveals that the probable cause of death was multiple injuries, particularly to the parietal and occipital regions of the head. The video footage also shows the deceased sitting on the ground, visibly bleeding from his nose and face. The learned APP further invited attention to the applicant's previous criminal antecedent, registered as Crime No. 123 of 2014, for offences under Sections 302 and 307 of IPC, to show the applicant's propensity towards violent crimes.

9. As regards the plea of parity, it was submitted that the co-accused who was granted bail had a clearly distinguishable role, as he was not involved in the actual assault, whereas the present applicant is shown to be a principal assailant. Therefore, the principle of parity cannot be extended to the applicant. On the aspect of delay in trial, it was submitted that the roznama of proceedings clearly shows that the delay is largely attributable either to the absence of the accused's advocate or to pendency of bail applications, and not due to any lapse on part of the prosecution. She, therefore, prayed for rejection of the bail application.

10. I have carefully considered the rival submissions and perused the material placed on record. The charge-sheet, statements of witnesses, electronic evidence in the form of CCTV footage, mobile

phone recording, and the Post-Mortem Report collectively disclose that the deceased was subjected to a brutal assault by a group of persons, including the present applicant. The material prima facie indicates that the assault was not a momentary or sudden act but a prolonged and continuous beating at two different places, inflicted with sticks and a leather belt, which ultimately resulted in the victim's death.

11. The contention of the applicant that identification of the assailants is doubtful due to poor visibility does not merit acceptance at this stage. The eyewitness has categorically stated that there was sufficient lighting at the place of occurrence and he was in a position to clearly identify the persons involved. This version is further corroborated by CCTV footage and the mobile video recording, which specifically captures the applicant participating in the assault. The argument of doubtful identification therefore loses its force.

12. The submission regarding absence of motive also does not advance the case of the applicant. In a charge under Section 302 IPC, motive, though relevant, is not a sine qua non when there is direct evidence and other corroborative material pointing towards the involvement of the accused. Here, the evidence on record prima facie shows active participation of the applicant in the assault that culminated in the death of the victim.

13. Coming to the plea of parity, the record indicates that the co-accused who was granted bail by this Court had a distinguishable role and was not shown to be part of the actual

assault. On the contrary, the applicant herein is specifically named as an active assailant, visible in the video recording, and also identified by the eyewitness. Hence, the principle of parity is not applicable to the present case.

14. As regards the argument of delay in trial, the record (roznama) shows that the delay is not attributable to the prosecution but is largely on account of the absence of the defence counsel and pendency of applications filed on behalf of the accused. The trial has already commenced, and therefore, the contention of prolonged incarceration by itself cannot be treated as a sufficient ground to enlarge the applicant on bail in such a serious offence.

15. The fact that the applicant has one prior criminal antecedent for grave offences under Sections 302 and 307 IPC cannot be ignored. It prima facie indicates that the applicant has a propensity towards violence and is not a first-time offender. Granting bail in such circumstances would not only undermine the gravity of the offence but may also pose a risk of repetition of similar conduct.

16. In view of the above discussion, this Court is of the opinion that the present case does not warrant exercise of discretion in favour of the applicant. The gravity of the offence, the nature of evidence on record, the applicant's active role in the assault, and his past criminal antecedent, all weigh against the grant of bail.

17. Accordingly, the present bail application stands rejected.

(AMIT BORKAR, J.)