

Shabnoor

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

BAIL APPLICATION NO. 1730 OF 2025

Shivaji Dhanaraj Mane	... Applicant
V/s.	
State of Maharashtra	... Respondent

**WITH
BAIL APPLICATION NO. 1735 OF 2025**

Santosh @ Chintya Tatipamlu	... Applicant
V/s.	
State of Maharashtra	... Respondent

**WITH
BAIL APPLICATION NO. 4550 OF 2024**

Manoj Narayan Tope	... Applicant
V/s.	
State of Maharashtra	... Respondent

Mr. Sameer Hatle a.w Amit Mishra a/w Mr. Prathmesh Fernandes, for the applicant in BA Nos.1730/2025, 1735/2025.

Ms. Muskan Shaikh a/w Mr. Mateen Shaikh a/w Ms. Monika Chippa & Nikita H. a/w Mr. Umair Ahmad i/b Mr. Nadeem M. S. Shaikh, for the applicant in BA/4550/2024.

Mrs. Megha Bajoria, APP for the State – respondent.

Mr. Maheshkumar M., PSI, Narpoli Police Station, is present.

CORAM : AMIT BORKAR, J.

DATED : JULY 18, 2025

P.C.:

1. The present bail applications are preferred by the applicants under Section 439 of the Code of Criminal Procedure, 1973, seeking their release on regular bail in connection with Crime Register No. 948 of 2023, registered with Narpoli Police Station. The said crime has been registered for the offences punishable under Sections 302 (murder), 201 (causing disappearance of evidence of offence), 364A (kidnapping for ransom), 363 (kidnapping) and 34 (common intention) of the Indian Penal Code, 1860. In addition, provisions under Sections 37(1) and 135 of the Bombay Police Act, 1951 have also been invoked against the applicants.

2. The prosecution story, as can be gathered from the First Information Report (FIR), is that the complainant, a resident of Bhiwandi for the last two years, lodged the report on 28th November 2023. The complainant resides with her husband Ravi Prakash Sharma (aged 48 years), elder son Abhishek (aged 22 years), daughter Kavita (aged 19 years), and youngest son Yogesh (aged 16 years, 5 months, and 6 days). The complainant's husband earns livelihood by driving an autorickshaw while Abhishek is employed at a car showroom. The minor son Yogesh had studied till 9th standard but had discontinued his studies and occasionally took up work related to car cleaning. The FIR mentions that Yogesh, on several occasions, used to remain outside the house for 2–3 days at a time.

3. It is further alleged that on 25th November 2023, at around

7.30 p.m., while the complainant was at her home, her son Yogesh was using her mobile phone bearing number 8087545972. During that time, he received a phone call on the said number. After speaking on the call, Yogesh informed his mother that he was going towards Kalher Creek and would return shortly. He then left the house with the said mobile phone and another mobile phone. However, he did not return. The complainant tried to contact him on both mobile numbers (8087545972 and 7058256772), but both numbers were switched off. Thereafter, the complainant and her husband searched for their son in various localities such as Sainagar, Kamatghar, Ajuranfata, Kalher, Kasheli, Purna, and Khadikinari, but were unable to trace him. They also contacted their relatives but to no avail. The complainant therefore suspected that unknown persons had kidnapped her son.

4. Learned Advocate appearing on behalf of the applicants Shivaji and Santosh submitted that the only role attributed to these two applicants is that of their presence at the place of incident. It is pointed out that even this alleged presence is after a delay of around 30 to 35 minutes from the time the main accused reached the location. It is argued that no specific or active role is attributed to these two applicants, and there is no material on record to suggest their direct participation in the commission of the offence. In such circumstances, mere presence at the scene of offence, without any overt act or concerted participation, is not sufficient to attract the provisions of Section 34 of IPC, which relates to common intention.

5. So far as applicant Manoj is concerned, learned Advocate

appearing for him submitted that the only role assigned to him is that he had accompanied co-accused Deepak and Vicky for purchasing materials for the disposal of the dead body. It is submitted that as per the statement of the shop owner from whom the materials were purchased, it was only Deepak and Vicky who entered the shop and made the purchase, whereas Manoj and co-accused Ramashish (who has already been released on bail) remained outside the shop premises. It is therefore contended that Manoj's involvement is comparatively less than that of Ramashish. On this basis, the applicant Manoj has invoked the principle of parity and seeks to be released on bail on the same footing as that of Ramashish, who was granted bail by this Court in Bail Application No. 1472 of 2025.

6. On the other hand, learned APP has opposed the grant of bail to all the applicants. In particular, it is argued that the role of applicant Manoj is materially different from that of Ramashish, and hence, the principle of parity is not attracted. It is contended that Manoj was involved with the co-accused Ayush from the inception of the crime till the stage of disposal of the body. As such, his continuous involvement in the entire sequence of events indicates active participation, and he cannot be equated with Ramashish, whose role was limited in nature. It is further submitted that the aspect of common intention under Section 34 of IPC involves a question of fact and law, which requires detailed consideration at the time of trial, and at this stage, the totality of involvement of each accused must be looked into. Considering the gravity of the alleged offence, which involves the murder of a

minor boy and subsequent efforts to destroy evidence, the learned APP submitted that the applicants do not deserve the relief of bail at this stage.

7. I have carefully considered the submissions advanced by the learned Advocates for the applicants and the learned APP for the State. I have also perused the material placed on record including the copy of the FIR, statements of witnesses, and case diary entries as made available during the course of hearing.

8. It is not in dispute that the main incident pertains to the alleged kidnapping and murder of a minor boy aged about 16 years, and subsequent disposal of his body. The seriousness of the offence is not in doubt. However, while considering an application for bail under Section 439 of the Cr.P.C., the Court is required to consider not only the gravity of the offence but also the specific role attributed to the applicant, availability of evidence against him, likelihood of tampering with prosecution evidence or influencing witnesses, and the stage of the trial.

9. As far as applicants Shivaji and Santosh are concerned, the only role attributed to them is that of being present at the spot of incident, and even this presence is stated to be after 30 to 35 minutes of the arrival of the main assailant. No specific act of assault or participation in the kidnapping or murder is alleged against them. There is no material on record indicating that these two applicants were involved in any preparatory act, or that they shared a prior plan or common intention to commit the alleged offence. At this stage, prima facie, their presence alone, without

any further incriminating material, is not sufficient to attract Section 34 of the IPC. Whether they were aware of the intention of the main accused or not is a matter that can be tested during trial.

10. Insofar as applicant Manoj is concerned, his role, as per the prosecution, is that he accompanied co-accused Deepak and Vicky while they went to purchase materials allegedly used for disposal of the deceased's body. However, the material on record indicates that the purchase of such materials was actually done by Deepak and Vicky, while Manoj and co-accused Ramashish were waiting outside the shop. Ramashish has already been granted bail by this Court in Bail Application No.1472 of 2025. Therefore, on the principle of parity, and considering the limited nature of Manoj's alleged involvement, he is also entitled to the same relief. It is not the case of the prosecution that Manoj was part of the group that kidnapped or murdered the deceased. His role is stated to be post-offence, and that too, indirect.

11. At this stage, the trial is yet to commence and it is informed that charges are not yet framed. The applicants are in custody since their arrest in the end of 2023. There is nothing placed on record to suggest that the applicants are likely to abscond or tamper with prosecution evidence if released on bail. Appropriate conditions can be imposed to safeguard the interest of justice.

12. Considering the above facts, the specific role attributed to the applicants, the principle of parity, the fact that the investigation is complete and chargesheet has been filed, and the overall circumstances, this Court is of the considered view that a

case for grant of bail is made out.

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

- i) The bail applications are allowed;
- ii) The applicants are directed to be released on bail in connection with Crime Register No.948 of 2023 registered with Narpoli Police Station for offences punishable under Sections 302, 301, 364(a), 363, and 34 of the IPC, Sections 37(1), 135 of the Bombay Police Act, 1951, upon each of them 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 applicants shall not tamper with evidence, or directly or indirectly contact, influence, threaten, or intimidate any witness, particularly family members of the deceased.
 - (b) The applicants shall attend Narpoli Police Station on first Monday of every month between 11.00 a.m. to 1.00 p.m., until further orders.
 - (c) The applicants shall not leave the territorial jurisdiction of the Trial Court without its prior written permission.
 - (d) The applicants shall not commit any offence or engage in any criminal activity during the pendency of the trial.
 - (e) The applicants shall, at the time of furnishing surety,

provide their 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.

(f) Any breach of these conditions shall result in the prosecution moving for cancellation of bail before the Trial Court.

14. The Bail Applications are accordingly disposed of in above terms.

(AMIT BORKAR, J.)