

5AGK

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.1820 OF 2025

Mayank Yogesh Jethwa ... Applicant
V/s.
The State of Maharashtra ... Respondent

ATUL
GANESH
KULKARNI
Digitally signed by
ATUL GANESH
KULKARNI
Date: 2025.06.27
17:24:00 +0530

Mr. Santosh H. Chari for the applicant.

Mrs. Mahalaxmi Ganapathy, APP for the respondent-
State.

Mr. Vikas Raut, API (IO), V.P. Road Police Station, is
present.

CORAM : AMIT BORKAR, J.

DATED : JUNE 24, 2025

P.C.:

1. This is an application filed by the applicant under *Section 483* of the *Bhartiya Nagarik Suraksha Sanhita, 2023*, seeking regular bail in connection with *Crime Register No.541 of 2024*, registered at V.P. Road Police Station, for offences punishable under *Section 103(1)* read with *Section 3(5)* of the *Bhartiya Nyaya Sanhita, 2023*.

2. As per the case of the prosecution, on 22 October 2024, at around 20:00 hours, information was received at the police station regarding the death of an unknown person. Upon reaching the spot, the police found the cousin of the deceased, one Mr. Jamal, who informed that he had received a message from Mr. Ramesh stating that the deceased had been assaulted. On the basis of this

information, a report was lodged and investigation was undertaken. Statements of eye-witnesses were recorded, wherein it is alleged that accused Nos.1 and 3 had assaulted the deceased using wooden sticks, whereas the present applicant allegedly assaulted the deceased with fist and blows. Column No.17 of the postmortem report reflects six contusion injuries found on the shoulder, elbow joint, left side of chest, left lung and upper back. The cause of death is mentioned to be multiple blunt force injuries.

3. The applicant was arrested on 24 October 2024, i.e., within two days of the incident.

4. Learned counsel for the applicant has drawn the attention of this Court to the statements of key witnesses as well as the CCTV panchanama, and submitted that the role attributed to the applicant is not of using any weapon but only of assault by fists and blows. He further submitted that it is only accused Nos.1 and 3 who are seen using wooden sticks during the incident. Therefore, it was argued that the applicant does not share the same degree of culpability and has made out a prima facie case for being released on bail.

5. On the other hand, learned Additional Public Prosecutor has opposed the bail application, contending that although the applicant did not use any weapon, he was present at the scene of offence and took active part in the assault. It was further argued that the exact contribution of injuries leading to death is still under investigation, and the expert opinion on the medical cause of death is awaited. According to the prosecution, the joint act of the

applicant along with accused Nos.1 and 3 has resulted in the death of the deceased, and therefore, at this stage, the applicant does not deserve to be enlarged on bail.

6. I have considered the submissions advanced by the learned counsel for the applicant and the learned APP for the State. I have also perused the material placed on record, including the statements of witnesses, CCTV panchanama, and postmortem report.

7. At the outset, it is noted that the role attributed to the applicant is of assault by fists and blows, whereas the co-accused Nos.1 and 3 are specifically named and seen in CCTV footage wielding wooden sticks and using them during the incident. The postmortem report does record six contusion injuries; however, it does not conclusively attribute any specific injury to the present applicant. It is also not the case of the prosecution that the applicant was armed with any deadly weapon.

8. Though the death is unfortunate and caused by multiple injuries, it is a settled position of law that in order to attract the rigours of a serious penal provision like *Section 103(1) read with Section 3(5) of the BNS*, individual role of each accused must be assessed. Prima facie, the evidence presently available suggests distinction in the degree of involvement of the applicant vis-à-vis co-accused. The act of the applicant, at this stage, appears to be without use of any weapon.

9. It is also noted that the applicant has been in custody since 24 October 2024, and the investigation qua him is stated to be

almost complete. Charge-sheet has been filed. There is no allegation of tampering with evidence or threatening witnesses on behalf of the applicant. Therefore, further custodial interrogation of the applicant is not warranted at this stage.

10. Considering the above circumstances, especially the limited role attributed to the applicant, absence of any weapon use, and the principles of personal liberty, I am of the view that a case for grant of bail is made out.

11. 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.541 of 2024* registered with V.P. Road Police Station for offences punishable under Sections 103(1) read with 3(5) of the Bhartiya Nyaya Sanhita, upon 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 V.P. Road 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 enter Khetwadi Area during trial.

e) It is made clear that if the applicant intends to visit his ailing grandmother, he shall inform the V.P. Road Police Station one day earlier of his visit.

f) The applicant shall not indulge in any criminal activity during the pendency of the trial.

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

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

(AMIT BORKAR, J.)

Note: This order is modified as per order dated 27 June 2025 to correct to Crime Register No. in paragraphs 1 and 11(ii).