

AGK

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

BAIL APPLICATION NO.1855 OF 2025

Mahendra @ Pappu
Harishchandra Bagul

... Applicant

V/s.

State of Maharashtra

... Respondent

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GANESH
KULKARNI

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Mr. Vinod V. Kashid for the applicant.

Mr. Sagar R. Agarkar, APP for the respondent-State.

Mr. Sandeep Phad, PSI, Negal Police Station, Raigad, is present.

CORAM : AMIT BORKAR, J.

DATED : SEPTEMBER 22, 2025

P.C.:

1. The present application is filed under Section 439 of the Code of Criminal Procedure, 1973. The applicant seeks regular bail in connection with Crime Register No. 159 of 2022 registered at Neral Police Station for offences punishable under Sections 307, 120B read with Section 34 of the Indian Penal Code, 1860 and Sections 3, 25, and 27 of the Arms Act.

2. The prosecution case, in short, is that the First Informant is an autorickshaw driver residing at village Soniwala, Taluka Ambernath, District Thane. He owns autorickshaw bearing No. MH-05-CG-1948. On 20 May 2022, at about 11.30 a.m., he was at the rickshaw stand at Badlapur. At about 4.30 p.m., he received a call for hire and was asked to come to village Vangani. On reaching

there, he was further asked to proceed to village Shelu and thereafter to village Damat. At about 9.30 p.m., while he was waiting for passengers in his autorickshaw, one person boarded the vehicle. After travelling about one and a half kilometers, the said passenger fired a bullet at the informant's neck, causing a serious bleeding injury. The assailant attempted to fire a second shot, but the informant caught hold of his hands, and the bullet was discharged in the air. Taking advantage of the situation, the informant pushed the assailant and managed to escape. He was hospitalized, where he named accused No.1, Prakash Survase, as the assailant who allegedly attempted to kill him on a contract. On this basis, Crime Register No. 159 of 2022 came to be registered at Neral Police Station.

3. Learned Advocate for the applicant submits that co-accused Nos.3 and 4, who allegedly fired at the informant, as well as accused No.2, who allegedly engaged the applicant through co-accused Nos.3 and 4, have already been released on bail. He argues that there is no recovery from the applicant. The fact that the call detail records show his connection with accused No.2 is a matter to be tested at trial. He further submits that the applicant has been in custody since 20 January 2025 and deserves to be enlarged on bail.

4. On the other hand, learned APP submits that the call detail records establish the applicant's contact with accused No.2. He points out that the applicant was absconding from the date of the incident until his arrest in January 2025. Considering the seriousness of the offence, he contends that the applicant does not

deserve to be released on bail.

5. I have considered the rival submissions and gone through the material on record. The prosecution case shows that the main role of firing is attributed to co-accused Nos.3 and 4. They have already been released on bail. Accused No.2, who is alleged to have engaged the services of the applicant for contract killing, is also on bail. In such circumstances, continued custody of the applicant alone, when the other principal accused are already released, would result in unequal treatment.

6. The prosecution relies mainly on the call detail records to connect the applicant with accused No.2. Whether such CDRs establish conspiracy or actual participation of the applicant is a matter to be proved during trial. At this stage, the evidentiary value of such material cannot be taken as conclusive.

7. It is true that the applicant was arrested after some delay. However, mere abscondence cannot be the sole ground to deny bail when the substantive allegations against the co-accused, who are stated to have actually fired upon the informant, are already diluted by grant of bail to them. The principle of parity applies with greater force in the present case.

8. The applicant has been in custody since 20 January 2025. The trial is not likely to conclude in the near future. Continued detention of the applicant would amount to pre-trial punishment, which is not permissible.

9. Considering the overall facts, the role attributed, the release of similarly placed co-accused on bail, and the fact that the

applicant's involvement is based only on CDR evidence which requires proof during trial, I am of the opinion that the applicant deserves to be released on bail, subject to suitable conditions.

10. Hence, following order is passed:

- i) The bail application is allowed;
- ii) The applicant is directed to be released on regular bail in connection with Crime Register No.159 of 2022 registered with Neral Police Station for offences punishable under Sections 307, 120(B) read with Section 34 of the IPC read with Section 3, 25, and 27 of the Arms Act, upon 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 applicant shall not tamper with evidence, or directly or indirectly contact, influence, threaten, or intimidate any witness, particularly family members of the deceased.
 - (b) The applicant shall report to the Neral Police Station once in a month, specifically on the 1st Monday of each month, between 10:00 a.m. and 12:00 noon, until further orders.
 - (c) The applicant shall not leave the State of Maharashtra without prior written permission of the Trial Court.

(d) The applicant shall not commit any offence or engage in any criminal activity during the pendency of the trial.

(e) The applicant shall, at the time of furnishing surety, provide his 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) In case of any breach of the conditions mentioned above, the prosecution shall be at liberty to move for cancellation of bail.

11. The bail application is allowed and disposed of.

(AMIT BORKAR, J.)