

VRJ

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

BAIL APPLICATION NO.1952 OF 2025

VAIBHAV
RAMESH
JADHAV

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VAIBHAV RAMESH
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Ganesh Chinku Yadav

... Applicant

V/s.

The State of Maharashtra

... Respondent

Mr. Prashant Pandey with Ridhima Mangaonkar and
Dinesh Jadhwani i/by W3Legal LLP for the applicant.

Ms. Shilpa G. Talhar, APP for the State.

Mr. Rahul M. Phad, PSI, Tulinj Police Station is present.

CORAM : AMIT BORKAR, J.

DATED : JUNE 19, 2025

P.C.:

1. This is an application filed under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023, wherein the applicant is seeking regular bail in connection with Crime No.610 of 2024, registered with Tulinj Police Station, for offences punishable under Sections 103(1), 109, 189, 190, 191, 189(2), 189(4), 191(2), 191(3), and 194 of the Bharatiya Nyaya Sanhita, 2023.

2. As per the case of the prosecution, the applicant along with other co-accused persons formed an unlawful assembly and jointly assaulted the deceased, resulting in his death. It is alleged that the other co-accused were armed with weapons and inflicted grievous injuries on the deceased. Insofar as the present applicant is

concerned, the specific role attributed to him, as reflected in the statements of eyewitnesses and injured witnesses, is that of assaulting the deceased with fist and blows and allegedly abetting the acts of the other accused persons who were armed.

3. Learned advocate appearing for the applicant has drawn my attention to the statements of the prosecution witnesses, and submitted that even if the entire material on record is taken at face value, the role of the applicant is confined only to causing assault by fist and blows, without any attribution of weapon use. It was further submitted that the applicability of the principle of common intention under Section 3(5) of BNS Act would be a matter of trial and evidence, and at this stage, there is no material to suggest any premeditated or active participation in the murder. It is also pointed out that the applicant has no prior criminal antecedents, and has been in custody since arrest. Hence, a case for grant of bail on merits and parity has been made out.

4. On the other hand, learned Additional Public Prosecutor vehemently opposed the bail application. It is submitted that the presence of the applicant at the scene of offence is established, and the role attributed to him is not of a passive spectator but of one who actively assaulted the deceased with fist and blows and instigated the other accused, who were armed with weapons, to assault the deceased. The learned APP submits that in view of the nature of the offence, the gravity of allegations, and the collective impact of the unlawful assembly, the applicant does not deserve the discretionary relief of bail.

5. Upon hearing the submissions of both sides and perusing the material placed on record including the statements of the eyewitnesses, injured witnesses, and the chargesheet, the following observations emerge:

(a) The specific role attributed to the present applicant is of assaulting the deceased by fist and blows. There is no material prima facie to suggest that the applicant was armed with any weapon at the relevant time.

(b) The main overt act of causing fatal injuries is attributed to other co-accused persons who were allegedly armed with deadly weapons. In contrast, the role of the applicant appears to be peripheral and limited, as of one who was present and allegedly abetted the incident.

(c) The aspect of common intention under Section 3(5) of Bharatiya Nyaya Sanhita, and whether the assault by fist and blows can be said to have had a direct causal nexus with the death of the deceased, will have to be decided during the trial, based on the totality of evidence.

(d) The applicant has been in custody since his arrest, and there is no material placed on record to indicate that he has any criminal antecedents.

(e) It is also relevant to note that investigation is complete and chargesheet has been filed. Hence, further custodial interrogation of the applicant is not required.

(f) It is well settled that bail is the rule and jail is an

exception, particularly when the trial is likely to take time, and the applicant's continued incarceration may not serve any useful purpose, provided his release is not likely to prejudice the case.

6. In this backdrop, and considering the nature of the role, lack of antecedents, and the fact that the applicant is not shown to be a flight risk, I am of the view that the applicant has made out a prima facie case for grant of regular bail. At the same time, the apprehensions of the prosecution can be adequately safeguarded by imposing stringent conditions.

7. Hence, the following order is passed:

- i. The applicant Ganesh Chinku Yadav is directed to be released on bail in connection with Crime No.610 of 2024 registered with Tulinj Police Station for offences punishable under sections 103(1), 109, 189, 190, 191, 189(2), 189(4), 191(2), 191(3), 194 of Bharatiya Nyaya Sanhita, 2023, upon furnishing cash sureties of Rs.25,000/- (Rupees Twenty Five Thousand Only) and executing a Personal Recognizance (P.R.) Bond in the like amount, within a period of six weeks from the date of his release, subject to the following conditions:
- ii. The applicant shall not tamper with the evidence or attempt to influence any witnesses in any manner.
- iii. The applicant shall regularly remain present before the Trial Court on every date of hearing, unless prevented by sufficient and justifiable cause.

- iv. The applicant shall not leave the territorial jurisdiction of the concerned Trial Court without obtaining prior permission.
- v. The applicant shall not, in any manner, contact the victim's family members, directly or indirectly.
- vi. The applicant shall not commit any offence or indulge in any criminal activity during the pendency of the trial.

(AMIT BORKAR, J.)