

HARSHADA H. SAWANT  
(P.A.)

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

**BAIL APPLICATION NO.1961 OF 2025**

|                          |               |
|--------------------------|---------------|
| Prakash Narayan Mohite   | .. Applicant  |
| <b>Versus</b>            |               |
| The State of Maharashtra | .. Respondent |
| .....                    |               |

- Mr. Mohit Dalvi a/w. Mr. Amit Mane, Advocates for Applicant.
  - Mr. Hitendra J. Dedhia, APP for Respondent.
- .....

**CORAM : MILIND N. JADHAV, J.**

**DATE : MAY 09, 2025**

**P.C.:**

**1.** Heard Mr. Dalvi, learned Advocate for Applicant and Mr. Dedhia, learned APP for Respondent.

**2.** Applicant is one of the four accused persons indicted in offences punishable under Sections 103(1), 212, 3(5), 189(2), 190 and 191(2) of the Bharatiya Nyaya Sanhita, 2023 (for short '**BNS**').

**3.** Mr. Dalvi would persuade me to consider the prosecution case emanating from the record and would submit that at 06.00 a.m. in the morning a thief entered the MMRDA Building in which the four accused persons were employed as watchman. The said thief was caught by them and according to prosecution case, he was assaulted by stick, fist and kick blows.

**4.** He would submit that the police was informed by the accused persons and after arrival of police instead of taking the injured victim to the hospital, crucial two hours were lost and victim was thereafter moved to hospital and declared dead on arrival.

**5.** Allegation of prosecution case is that all four accused persons committed the crime under Sections 103(1), 212, 3(5), 189(2), 190 and 191(2) of the BNS.

**6.** Mr. Dalvi would persuade the Court to consider the fact that neither there was any pre-meditation or plan on the part of the accused persons to commit the crime. He would submit that accused persons were all deployed on duty to guard the building belonging to a Government agency (MMRDA) and in the course of their employment, they apprehended the victim who had entered the building with the intention of committing a crime and breaking the law and it was their duty to apprehend him thereafter.

**7.** Though he would submit that in a given case, allegation of prosecution may be possibly oriented towards the four accused persons who have assaulted the victim but this is a clear case of absence of *mens rea* on the part of all four accused persons to commit the alleged crime.

**8.** That apart, he would argue that prosecution case is *prima facie* based on circumstantial evidence and co-accused statements since

there is no corroborative evidence to prove the fact that the Applicant or for that matter the accused persons indeed assaulted the victim.

**9.** He would submit that one out of the four accused persons is before the Court. He would also inform the Court that on the instructions of their employer all four accused persons immediately surrendered to the police which *prima facie* shows their *bona fides*.

**10.** Learned Advocate for Applicant has *prima facie* made out a case for grant of bail. The incident occurred on 01.09.2024 and all four accused persons surrendered on 02.09.2024 and since past 8 months and 7 days they are in incarceration. Investigation has been completed and charge-sheet has been filed.

**11.** In my *prima facie* opinion, further custody of Applicant is not required. However, learned APP is directed to take appropriate instructions on the veracity of submissions made by the learned Advocate for Applicant and ascertain the same from the prosecution record and apprise the Court about the same as also precise role of accused on the next adjourned date.

**12.** Considering the aforesaid *prima facie* facts, learned Advocate for Applicant is granted liberty to move Vacation Court.

**13.** List Bail Application No.1943 of 2025 alongwith the present Application since Applicant in the present crime is co-accused in the

same crime.

**14.** Stand over to 15<sup>th</sup> July, 2025.

H. H. SAWANT

[ MILIND N. JADHAV, J. ]

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