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

BAIL APPLICATION NO.2087 OF 2025

Anil Gulabchand Yadav	... Applicant
V/s.	
The State of Maharashtra	... Respondent

VAIBHAV
RAMESH
JADHAV

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Mr. Bhanudas L. Jagtap with Mr. Ashish B. Jagtap for the applicant.

Ms. Rajashree V. Newton, APP for the State.

Mr. Chhatrapati Rathod, PSI, Oshiwara Police Station is present.

CORAM : AMIT BORKAR, J.

DATED : JULY 21, 2025

P.C.:

1. By the present application filed under Section 439 of the Code of Criminal Procedure, 1973, the applicant seeks to be released on regular bail in connection with Crime No. 42 of 2021 registered with Oshiwara Police Station, for offences punishable under Sections 307 and 302 of the Indian Penal Code, 1860.

2. The prosecution case, in brief, is that on 30th January 2021, the first informant lodged a report stating that he was residing with his father, wife, son, and his brother Anil (the present applicant). It is stated that the informant was engaged in the business of A.C. repairs, while his father, the deceased Gulabchand Yadav, was a painter by profession. It is further alleged that the

applicant, who is the informant's brother, was mentally unwell for the past 6 to 7 years and was undergoing psychiatric treatment at Dr. R.N. Cooper Hospital, Juhu, Mumbai.

3. On the date of the incident, i.e., 30th January 2021, at about 6:30 p.m., the informant had gone to Goregaon (West) for some work. At that time, his father (deceased), his wife, son, and the applicant were present at home. Around 7:30 to 8:00 p.m., their neighbour Raju called the informant on phone and informed that the applicant was assaulting his father. On receiving this information, the informant immediately rushed home and, on the way, noticed a crowd gathered outside the clinic of Dr. Vijaynath Yadav. He was informed that his father had been brought there for medical treatment. An eyewitness, Ms. Vrindavati, informed his wife that the applicant had struck their father on the head with a wooden stump. It is further stated that the people in the vicinity intervened and rescued the father from further assault.

4. The learned Advocate for the applicant has drawn the attention of this Court to the medical records of the applicant, particularly the discharge summary issued by the Department of Psychiatry, Dr. R.N. Cooper Municipal General Hospital, Juhu. It is submitted that on the date of the incident, i.e., 30th January 2021, the applicant was under treatment for Schizophrenia and was admitted to the said hospital. The mental health assessment dated 26th February 2021 records that the applicant continued to exhibit psychiatric symptoms and was found unfit to stand trial as he lacked the mental capacity to make decisions and was in need of long-term psychiatric care.

5. It is further submitted that even in the follow-up report dated 5th March 2021, though there was a noted improvement in his symptoms, the applicant continued to suffer from persecutory delusions. In view of the absence of long-term inpatient psychiatric care at the said hospital, he was advised to be discharged. It is pointed out that the applicant has been in custody since 31st January 2021. The charge-sheet filed by the prosecution mentions as many as 24 witnesses. Considering the number of witnesses and the nature of the case, it is unlikely that the trial will conclude in the near future. It is therefore urged that the applicant be released on regular bail, particularly in view of his mental health condition and prolonged incarceration.

6. On the other hand, the learned Additional Public Prosecutor has opposed the present application. It is submitted that the question as to whether the applicant was indeed suffering from Schizophrenia at the time of the incident, and whether he was of unsound mind, are factual matters that can be determined only during the course of trial. It is submitted that the allegations against the applicant are of serious nature, inasmuch as he is alleged to have assaulted and caused the death of his own father. The prosecution has placed on record direct evidence against the applicant, including the version of an eyewitness. It is, therefore, prayed that the application for bail be rejected.

7. I have given my thoughtful consideration to the rival 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 FIR, medical documents, and

psychiatric evaluation reports.

8. It is not in dispute that the present applicant is the biological son of the deceased. The prosecution case, as emerging from the FIR and witness statements, reveals that the applicant allegedly assaulted his own father with a wooden stump, which ultimately resulted in his death. The incident was witnessed by a neighbour, and there is direct evidence available at this stage.

9. However, the most significant aspect which deserves consideration is the mental condition of the applicant. The medical records of the Department of Psychiatry, Dr. R.N. Cooper Hospital, produced before this Court, show that the applicant has been undergoing psychiatric treatment for the past several years and was diagnosed with Schizophrenia. The discharge summary dated 26th February 2021 specifically mentions that the applicant continued to exhibit psychiatric symptoms, lacked capacity to make decisions, and was unfit to stand trial. Furthermore, the follow-up report dated 5th March 2021 also reflects that although there was some improvement in his condition, he continued to suffer from persecutory delusions.

10. The law is well settled that an accused who is of unsound mind and incapable of making a defence cannot be tried unless certified to be fit to face trial. This principle finds support in Chapter XXV of the Code of Criminal Procedure, 1973. The material placed on record prima facie indicates that at the relevant time, the applicant was suffering from a chronic mental illness. This is a factor that cannot be ignored while considering his prayer

for bail.

11. It is also to be noted that the applicant has been in custody since 31st January 2021. The charge-sheet has been filed, and the investigation is complete. The prosecution has cited 24 witnesses. Therefore, in all likelihood, the trial may take considerable time to conclude. The continued incarceration of a person who is medically certified as suffering from severe mental illness, without effective psychiatric care in custody, may not be justified, particularly when the accused is not in a condition to stand trial.

12. It is also not the case of the prosecution that the applicant, if released on bail, is likely to abscond or tamper with evidence. There is no material placed on record to show that the applicant has any criminal antecedents. In fact, the overall circumstances suggest that the act, though grave, may have stemmed from his mental disorder. This Court is conscious of the seriousness of the offence, but at the same time, the mental health of the accused and his right to medical treatment and fair trial also require equal consideration.

13. In the facts and circumstances of the case, this Court is of the considered opinion that a case is made out for granting regular bail to the applicant. The application deserves to be allowed.

14. Hence, the following order is passed.

- i) The bail application is allowed;
- ii) The applicant Anil Gulabchand Yadav is directed to be released on bail in connection with Crime No.42 of 2021

registered with Oshiwara Police Station for offences punishable under Sections 307 and 302 of the Indian Penal Code, 1860 upon furnishing cash surety 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 this order, subject to the following conditions:

- a) The applicant shall not tamper with the evidence or attempt to influence any witness.
 - b) The applicant shall appear before the Trial Court on every date of hearing unless prevented by sufficient cause.
 - c) The applicant shall not leave the territorial jurisdiction of the Trial Court without prior permission.
 - d) The applicant shall not indulge in any criminal activity during the pendency of the trial.
 - e) Any breach of these conditions shall result in the prosecution moving for cancellation of bail before the Trial Court.
4. The bail application is allowed and disposed of.

(AMIT BORKAR, J.)