



Sairaj

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO. 2096 OF 2025

Vishal Eknath Gawade

...Applicant

Versus

The State of Maharashtra

...Respondent

Mr. Ashok M. Saraogi, Mr. Talib K. Kalandan, Ms. Priti Rao,
for the Applicant.

Ms. Manisha R. Tidke, APP, *for the Respondent-State.*

Mr. Anil Laxman Ghaywat, PSI, Bhandup Police Station
present.

CORAM Dr. Neela Gokhale, J.
DATED: 26th September 2025

PC:-

1. By way of the present Application, the Applicant seeks his release on bail in connection with FIR No. 673 of 2024 dated 28th August, 2024 registered with the Bhandup Police Station, Mumbai, initially for offences punishable under Sections 115(2), 117(2) and Section 352 of Bharatiya Nyaya Sanhita, 2023 [for short, "**BNS, 2023**"]. Thereafter, Sections

103(1), 115(2), 117(2) and 352 of BNS, 2023 were added since the injured succumbed to his injuries.

2. The case of the prosecution is as follows:

i. The First Informant is the son of the deceased. The deceased was a security guard engaged by Dreams Society near Bhandup Police Station for the past five years.

ii. On 27th August, 2024, at around 10:00 p.m., the Complainant received a call from his father calling him immediately to the Dreams Society. He rushed to the said place only to find his father bleeding from his head and in great pain.

iii. When he inquired with his father as to how he was injured, his father narrated to him that a stranger tried to enter the society premises. When he inquired his name and the person to whom he was visiting, the said person got angry

with him and started beating him up. He gave his name as Vishal Eknath Gaikwad, i.e. Applicant herein.

iv. The Complainant's father then, called a few colleagues and tried to stop him. The Applicant was furious and started abusing the deceased-father and in a fit of anger, he held the deceased's head and started banging it on the cement wall. The deceased's head started bleeding. Despite the injuries, Applicant continued beating him up.

v. The deceased was seriously injured and was admitted to Dreams Hospital from where, he was taken to King Edward Memorial Hospital for treatment. During the treatment, the Complainant's father died.

vi. In these circumstances, the Complainant made the present complaint and consequently, the F.I.R. was registered.

vii. The Applicant made a bail application before the Trial Court and by an order dated 9th January, 2025, the bail

application was rejected. Hence, the Applicant filed the present application for the relief as prayed.

3. Mr. A. M. Saraogi, learned counsel appearing for the Applicant, submits that there was no intention on the part of Applicant to commit the offence. He submits that at best, it would be negligence on the part of Applicant and not a pre-meditated murder. He further pointed to the CCTV footage panchnama which according to him, revealed a scuffle between the deceased and the Applicant. He also pointed to the cause of death recorded in the post-mortem report, which shows the provisional cause of death as cervical spine injury. In these circumstances, he submits that the Application be allowed and Applicant be released on bail.

4. *Per contra*, Ms. Manisha Tidke, learned APP points to the CCTV panchnama as well as the statement of the Complainant, which is consistent with the Injury Certificate given by the Medical Officer. She also points to the statement of the another witness namely, Tukaram Ratna Dhopat, who

stated that the Applicant was trying to enter the building and when the deceased tried to stop him, he started beating him. She also relies on CCTV footage panchnama, which according to her, clearly reveals the incident. She thus, resists the Bail Application.

5. I have heard both the counsels and perused the record with their assistance.

6. The incident took place while the deceased was discharging his duties in the society as a security guard. He had no relationship with the Applicant. It was only in the performance of his duties, in preventing an unknown person from entering the society, that the said unknown person now identified as Applicant, started abusing and beating him. The degree of beating was such that the Applicant held his head and banged it number of times on cement concrete walls of the society. Despite his head starting to bleed, the Applicant did not stop. There is an eye-witness, who witnessed the entire incident. The post-mortem report in respect of the

deceased clearly indicates the provisional cause of death as evidence of cervical spine injury. It further records that on 27th August, 2024, at around 9:30 p.m., the deceased suffered grievous injury on his head leading to his death. The CCTV footage panchnama also shows the Applicant entering the gate of the society, in an inebriated condition, being stopped by the deceased. Thereafter, the Applicant is seen beating the deceased. The deceased is seen to be injured, trying to defend himself. The statement of eye-witness is consistent with that of the Complainant. It is thus, clear that the act is not done at the spur of the moment, but appears to be a pre-meditated act. Despite seeing the Applicant bleeding from his head, the Applicant continued to beat him. Thus, by no stretch, can it be said, that it was negligence on the part of Applicant. The Applicant was arrested on 29th August, 2024 at around 7:30 p.m. The charge-sheet is filed and charges are likely to be framed in the near future. The next date of hearing in Trial Court is 1st October, 2025. Thus, it is seen that the length of

incarceration is not unduly long more so considering the gravity of the act committed by the Applicant.

7. Considering the aforesaid, I am not inclined to grant bail to the Applicant. The Bail Application is rejected.

8. It is made clear that the observations made in this order are confined to the present bail application. The Trial Court shall decide the matter on its own merits and uninfluenced by the observations made in the present order.

(Dr. Neela Gokhale, J)