

*Shabnoor*

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

**BAIL APPLICATION NO.2384 OF 2025**

SHABNOOR  
AYUB  
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Satish Bhau Marge

... Applicant

**V/s.**

State of Maharashtra

... Respondent

Mr. Mohd Taha a/w Ms. Monika Chhipa, for the applicant.

Mrs. Shilpa G. Talhar, APP for the State – respondent.

**CORAM : AMIT BORKAR, J.**

**DATED : JULY 30, 2025**

**P.C.:**

1. By the present application filed under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023, the applicant is seeking regular bail in connection with Crime Register No. 24 of 2023 registered with Wada Police Station. The applicant is charged for the serious offence punishable under Section 302 read with Section 34 of the Indian Penal Code, 1860, for alleged involvement in the murder of one Santosh Tokare.

2. The brief facts of the prosecution case are that on 21st January 2023, at around 7:30 a.m., one Sanjeevani Tokare, who is the wife of the deceased, came to the residence of the complainant, Ananta Rama Tokar and informed him that her

husband, Santosh Tokare, was not responding. The deceased and Sanjeevani Tokare were husband and wife, and they had a daughter named Tanvi, aged about 13 years. It is alleged that the deceased was having an extra-marital affair with the wife of one co-accused Nitin Savar, which led to frequent quarrels between the deceased and his wife. According to the prosecution, due to these quarrels and strained relations, a conspiracy was hatched by Sanjeevani and the other co-accused to eliminate the deceased. It is alleged that on the night of 20th January 2023, the present applicant, along with Nitin Savar and two other persons, entered the house of the deceased and assaulted him on the head with a hammer. Further, it is alleged that the deceased ultimately died due to strangulation.

3. During the course of investigation, the minor daughter of the deceased, Tanvi, gave a statement stating that her parents had a quarrel earlier that day, during which the deceased physically assaulted her mother. She stated that on the night of 20th January 2023, four persons entered the house and went into the bedroom where the deceased was sleeping. After the incident, her mother allegedly threatened her and told her not to reveal anything about what she had witnessed. Based on the complaint lodged by Ananta Rama Tokar, the FIR came to be registered against the present applicant and other co-accused.

4. The learned advocate for the applicant submitted that the prosecution case itself reveals that the primary grievance was between the deceased and his wife, Sanjeevani Tokare, and it is alleged that along with four other persons, she committed the

crime. It is submitted that on the basis of Tanvi's statement, four persons including the present applicant were arrested. However, during the Test Identification Parade, Tanvi could not identify the present applicant, though she did identify the other three accused. It is further pointed out that the only material allegedly recovered from the applicant is some clothing, which does not bear any bloodstains or forensic linkage to the offence. It is argued that there is no direct evidence against the applicant, nor is there any specific motive attributed to him. The applicant has no criminal antecedents and has been in custody since 23rd January 2023. It is, therefore, prayed that the applicant may be enlarged on regular bail.

5. On the other hand, the learned APP has strongly opposed the bail application. She contends that even though there may not be direct eyewitness identification of the applicant, the circumstantial evidence, including the applicant's presence in the company of co-accused, is relevant. The Call Detail Record (CDR) analysis shows that the applicant was in contact with the other accused persons around the time of the incident. Although the recovered clothes do not have bloodstains, the prosecution argues that such recovery cannot be termed irrelevant, as the assault weapon and the act of strangulation need not necessarily result in visible bloodstains. It is further submitted that the offence is grave in nature, being an alleged brutal murder committed with premeditation, and in such circumstances, the applicant does not deserve to be released on bail.

6. Upon perusal of the material placed on record and considering the rival submissions advanced by the learned counsel for the applicant and the learned APP for the State, the following aspects emerge, which weigh in favour of granting bail to the applicant:

7. The key witness relied upon by the prosecution is the minor daughter of the deceased, Tanvi. It is her version that four unknown persons entered the house on the night of the incident and went into the room where the deceased was sleeping. However, it is an admitted fact that during the Test Identification Parade (TIP), Tanvi could not identify the present applicant, though she identified three other persons. This raises a serious doubt as to the applicant's actual presence at the scene of offence on the relevant night.

8. It is also not in dispute that the only material recovered from the applicant is some clothing, which, according to the prosecution itself, does not bear any bloodstains. No weapon has been recovered from the applicant, and no scientific evidence, such as fingerprints, DNA, or blood traces, has been shown to connect the applicant directly to the alleged assault or strangulation. This weakens the prosecution's case against the applicant at this stage.

9. The investigation, as presented, does not attribute any specific role to the applicant in the actual commission of the offence. There is no material to suggest that the applicant had any personal motive to participate in the alleged murder. The alleged motive appears to arise out of the strained relationship between

the deceased and his wife, co-accused Sanjeevani, and her alleged relationship with co-accused Nitin Savar. The applicant is not shown to have any such prior connection with the deceased that would independently suggest motive.

**10.** The prosecution has relied upon CDRs to suggest that the applicant was in contact with the co-accused. However, mere telephonic contact, without any corroborative evidence to show active participation in the alleged crime, is not sufficient to establish the applicant's complicity, especially when he has not been identified by the eyewitness and there is no recovery linking him to the actual assault.

**11.** The applicant has been in custody since 23 January 2023. The charge sheet has already been filed. The investigation, as far as the applicant is concerned, appears to be complete. No criminal antecedents are reported against him. Continued incarceration at this stage would amount to pre-trial punishment.

**12.** Considering the nature of allegations and the number of accused involved, the trial is likely to take a considerable period of time. In such circumstances, prolonged detention of the applicant, who is not shown to be a flight risk or a danger to society, is not justified.

**13.** It is well settled that liberty is a precious fundamental right under Article 21 of the Constitution of India. Unless the custodial interrogation is necessary or there is a possibility of the accused tampering with evidence or threatening witnesses, bail should ordinarily be granted.

14. In view of the above discussion, this Court is of the considered opinion that the applicant deserves to be released on bail. Appropriate conditions can be imposed to ensure that he does not misuse the liberty.

15. Hence, the following order :

(i) The Bail Application is allowed.

(ii) The applicant shall be released on bail in connection with Crime Register No. 24 of 2023 registered with Wada Police Station for offences punishable under Sections 302 read with 34 of IPC, upon furnishing a Personal Bond of ₹25,000/- (Rupees Twenty-Five Thousand only) along with one or more solvent sureties in the like amount, to the satisfaction of the learned 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.

(b) The applicant shall attend all proceedings before the Trial Court regularly, unless exempted by the Court on valid grounds supported by sufficient cause.

(c) The applicant shall report to the Wada Police Station once every three months, between 10:00 a.m. and 12:00 noon, until further orders.

(d) The applicant shall not leave the territorial jurisdiction of the Trial Court without its prior written permission.

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

16. The Bail Application stands disposed of in above terms.

**(AMIT BORKAR, J.)**