

VRJ

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

BAIL APPLICATION NO.2397 OF 2025

Kunal Dilip Patil	... Applicant
V/s.	
The State of Maharashtra	... Respondent

**WITH
BAIL APPLICATION NO.2403 OF 2025**

Nagesh Deepak Baderao	... Applicant
V/s.	
The State of Maharashtra	... Respondent

**WITH
INTERIM APPLICATION NO.2777 OF 2025
IN
BAIL APPLICATION NO.2403 OF 2025**

Mahesh Dashrath Gaikwad	... Applicant
In the matter between	
Nagesh Deepak Baderao	... Applicant
V/s.	
The State of Maharashtra	... Respondent

Mr. Sudeep R. Pasbola, Senior Advocate i/by Mr. Rahul Arote for the applicant in both BAs.

Mr. Abhishek Kulkarni with Mr. Sagar Wakale for the applicant-intervenor in IA/victim.

Mr. Ashish Chavan, Special P.P. with Mr. Mayur Mohite, and Mrs. Megha S. Bajoria, APP for the respondent-State in both the BAs.

CORAM : AMIT BORKAR, J.

DATED : AUGUST 5, 2025

P.C.:

1. These are bail applications preferred by the respective applicants under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023, seeking their release on regular bail in connection with Crime Register No.171 of 2024, registered with Hill Line Police Station, Ulhasnagar. The applicants are charged for offences punishable under Sections 307 (attempt to murder), 120-B (criminal conspiracy), 143 (unlawful assembly), 147 (rioting), 148 (rioting armed with deadly weapon), 149 (unlawful assembly with common object), 109 (abetment), 323 (voluntarily causing hurt), and 504 (intentional insult with intent to provoke breach of peace) of the Indian Penal Code, 1860, read with Section 30 of the Arms Act, 1959.

2. The background of the case, as projected by the prosecution, reveals that the incident in question has its roots in a political rivalry between two prominent local leaders. Ganpat Kalu Gaikwad, against whom serious allegations have been levelled, is stated to be a former Member of the Maharashtra Legislative Assembly from Kalyan (East) constituency. The injured person, Mahesh Gaikwad, is a former Corporator of the Kalyan-Dombivli Municipal Corporation and holds the position of Kalyan East City Head of a rival political party. The record suggests that there has been long-standing political enmity between these two individuals. Prior to the incident, on 31st January and 1st February 2024, altercations had taken place between them, further intensifying the hostility.

3. The prosecution alleges that on 2nd February 2024, supporters of both factions reached Hill Line Police Station, pressing for registration of FIRs against each other. At around 9.30 p.m., while Mahesh Gaikwad, Rahul Patil, and Chainu Jadhav (the first informant) were seated inside the cabin of the Senior Police Inspector (PI), Mr. Anil Jagtap, the accused Ganpat Gaikwad, accompanied by Vicky Ganatra, entered the said cabin. The situation turned volatile as both groups began confronting each other. The Senior PI and police staff attempted to intervene and calm the situation. It is stated that as the situation escalated, Senior PI Jagtap stepped out of the cabin momentarily.

4. It is alleged that at this juncture, the accused Ganpat Gaikwad, in a sudden and premeditated act, drew a revolver from his waist and opened fire on Mahesh Gaikwad and Rahul Patil with an intention to kill them. The gunshots resulted in serious injuries to Mahesh Gaikwad, who collapsed to the ground. The FIR further alleges that even after Mahesh Gaikwad fell, Ganpat Gaikwad mounted over him and assaulted him repeatedly with the butt of the revolver, causing grievous injuries to his head. He also allegedly fired towards the first informant.

5. As per the prosecution, during this entire episode, the present applicants, Kunal Patil and Nagesh Baderao, played active roles in aiding and facilitating the assault. It is specifically alleged that applicant Kunal Patil restrained the bodyguard of Mahesh Gaikwad, preventing him from intervening and protecting his principal. It is further stated that Kunal Patil also physically assaulted the said bodyguard and attempted to snatch his service

weapon. Simultaneously, the other applicant, Nagesh Baderao, is alleged to have inflicted heavy blows on the bodyguard's face, chest and head, resulting in grievous injuries. Both applicants are stated to have been part of an unlawful assembly that entered the police station with a common object to commit violence and instil fear, thereby aiding the principal accused in carrying out the brazen act.

6. The overall allegations, as per the prosecution, demonstrate a shocking incident where a violent assault involving firearms took place inside the premises of a police station, an institution meant for public protection and rule of law. The applicants are alleged to have actively participated in the act by aiding the principal accused and assaulting a police-assigned bodyguard. The gravity and brazenness of the incident, its setting, and the apparent premeditation alleged, are factors which shall be relevantly considered while determining the plea for bail.

7. Shri Pasbola, learned Senior Advocate appearing for the applicants, submitted that the applicants stand on the same footing as that of two co-accused persons, namely Sandip and Ranjit, who have already been released on bail by a Co-ordinate Bench of this Court. It is his submission that the role allegedly attributed to the present applicants is not graver than that of the said co-accused. Relying upon the doctrine of parity, it was urged that when co-accused having similar involvement have been enlarged on bail, there remains no justifiable reason to deny similar relief to the present applicants. He further submitted that the applicants are not alleged to have assaulted either Mahesh Gaikwad, who

sustained firearm injuries, or Rahul Patil, another victim. According to the learned Senior Advocate, the applicants were allegedly involved in scuffle with other members of the informant's group and not with the injured victims, and therefore, their role being comparatively less serious, they are entitled to be released on bail.

8. On the other hand, Mr. Ashish Chavan the learned Special Public Prosecutor vehemently opposed the bail applications. He contended that the principle of parity does not apply to the present applicants because the role attributed to them is distinct and more serious than the co-accused Sandip and Ranjit. It is submitted that the CCTV footage, which has been duly recorded and panchnama thereof prepared during investigation, clearly shows that Sandip had only attempted to assault one Shekhar Danve, the bodyguard of injured Mahesh Gaikwad, by lifting a plastic chair. However, the said act remained an attempt and did not culminate in actual physical assault, as Sandip put down the chair without hitting anyone.

9. In contrast, it is pointed out that both the present applicants are clearly seen in the CCTV footage actively assaulting Shekhar Danve. Not only that, but the footage also shows that they had restrained Shekhar Danve and prevented him from intervening or extending help to injured Mahesh Gaikwad when he was being fired upon and brutally assaulted by the main accused Ganpat Gaikwad. These overt acts of restraining and physically attacking the bodyguard during a brutal armed assault are, according to the learned Special Prosecutor, not only distinct but far more serious in

nature. Therefore, the learned Prosecutor submits that the applicants cannot claim the benefit of parity with those whose role was merely peripheral and not physically violent.

10. I have carefully considered the rival submissions advanced on behalf of the applicants and the State. I have also perused the material placed on record, including the CCTV footage referred to in the charge sheet, the panchnamas, statements of witnesses, and the previous orders passed by this Court while granting bail to co-accused Sandip and Ranjit. Upon a prima facie assessment of the material on record, I am unable to accept the argument of the applicants that they stand on the same footing as the aforesaid co-accused.

11. The principle of parity, though well-settled in bail jurisprudence, is not an absolute or inflexible rule. It is a guiding consideration which must be applied judiciously and with caution. Merely because bail has been granted to one of the co-accused does not, by itself, create a vested right in favour of another accused to claim similar relief. The Court must be satisfied that the role, nature of allegations, degree of involvement, and surrounding circumstances of the applicant are identical or similarly situated to those of the accused who has been granted bail.

12. In the present case, reliance has been placed by the learned Senior Advocate for the applicants on the order granting bail to co-accused Sandip and Ranjit. However, on a close scrutiny of the material on record and the comparative roles attributed to the co-accused, this Court is of the considered view that the applicants

are not similarly placed.

13. According to the prosecution, co-accused Sandip is seen in the CCTV footage merely lifting a plastic chair in a fit of aggression, which did not result in any actual harm or contact with any person. The panchnama of the footage confirms that the chair was not used to assault the bodyguard or any other person. Thus, his conduct, though aggressive, remained at the stage of an attempted but incomplete act.

14. Similarly, the role of co-accused Ranjit has been described as peripheral. There are no specific allegations against him of using force, restraining anyone, or causing injury during the incident.

15. In stark contrast, both applicants are clearly visible in the CCTV footage actively restraining and physically assaulting Shekhar Danve, who was the bodyguard of the injured person Mahesh Gaikwad. The applicants are seen preventing the bodyguard from discharging his duty of protecting the injured at a time when he was being fired upon and brutally attacked by the main accused Ganpat Gaikwad with a firearm and the butt of the revolver.

16. These overt acts of the applicants are not only grave but also indicate active and conscious participation in the offence. The applicants did not merely remain passive members of the assembly but facilitated the commission of a serious offence by disabling a security personnel in the line of duty. Their actions, if prima facie accepted, contributed directly to the success of the assault, and such conduct cannot be equated with the relatively minor or

passive role of the co-accused.

17. Therefore, in view of the seriousness of the role played by the applicants, the violence involved, and their distinct and graver involvement as compared to Sandip and Ranjit, the plea for bail on the ground of parity cannot be sustained. The doctrine of parity, though invoked, is found to be inapplicable in the facts of the present case.

18. The conduct of the applicants, as reflected in the CCTV footage and further supported by the statements of eyewitnesses recorded during the course of investigation, indicates their active and deliberate involvement in the entire episode. This is not a case where the applicants happened to be present at the spot by coincidence or were mere onlookers during a sudden political altercation. On the contrary, the available material on record suggests that the applicants played a conscious and purposeful role in facilitating the grievous assault committed by the main accused Ganpat Gaikwad.

19. The applicants are specifically alleged to have used physical force to overpower and restrain Shekhar Danve, the personal bodyguard of the injured person Mahesh Gaikwad, at a critical moment when the latter was under life-threatening attack. The bodyguard, being a trained and armed personnel, was in a position to intervene and possibly prevent further harm. However, by forcibly restraining him and further assaulting him, the applicants effectively disabled a lawful protector from discharging his duty.

20. The said act of the applicants, if proved during trial, not only attracts serious penal consequences under the Indian Penal Code but also reflects a disturbing attack on the authority of the law and the functioning of public institutions. It is relevant to note that the entire incident took place inside a police station, a place meant for enforcing law, offering safety, and ensuring that disputes are resolved peacefully under due process.

21. Engaging in such violent acts within the precincts of a police station, that too against a bodyguard, strikes at the very foundation of the rule of law. It creates an atmosphere of fear and lawlessness and sends a wrong message that even the police machinery can be rendered helpless in the face of political power or group violence. Such actions, if left unchecked or viewed leniently at the stage of bail, may seriously erode public confidence in law enforcement agencies and in the justice delivery system.

22. Therefore, looking at the nature and gravity of the allegations, the location of the incident, the role played by the applicants, and the potential impact on public confidence in the rule of law, I am not inclined to exercise discretion in favour of the applicants for grant of bail at this stage.

23. The offence alleged in the present case is undoubtedly grave in nature. What makes it more serious and concerning is the location where the incident occurred. A police station is presumed to be a place of safety, governed by law, and is the very symbol of the State's authority and protection. Any act of violence committed within its four walls cannot be treated lightly, as it strikes at the

heart of public order and security.

24. The material on record shows that the main accused used a firearm to launch a direct and brutal attack on the victim Mahesh Gaikwad. During this time, the applicants are alleged to have systematically obstructed the bodyguard of the victim, who was an official security personnel, from performing his protective role. Such obstruction was not accidental or passive, but a deliberate and forceful act which had the effect of aiding the commission of the main offence. It is this calculated interference that elevates the gravity of the applicants' involvement.

25. The brazenness of the incident, the firing of a weapon and the coordinated physical restraint of a bodyguard by the applicants, reflects not only a lack of fear for the law but a bold challenge to the rule of law itself. The incident did not occur in a private space or in a sudden flare-up in a street argument, but in a controlled, official, and secure environment, which makes the offence all the more shocking and unacceptable in a civilised society.

26. Further, it is important to note that the allegations against the applicants are not vague, general, or based on conjecture. The specific acts attributed to them are clearly visible in the CCTV footage and have been corroborated by independent eyewitnesses. The overt acts, as prima facie seen, clearly suggest an active and purposeful role in facilitating the violent assault committed by the principal accused, which is punishable under Section 307 of the Indian Penal Code (attempt to murder).

27. The allegations against the applicants not only disclose individual overt acts but also clearly indicate that they were members of an unlawful assembly as defined under Section 141 IPC. The group, led by the main accused Ganpat Gaikwad, entered the police station premises and, as per the CCTV footage and witness statements, acted in a coordinated manner to commit a serious offence, namely the attempted murder of Mahesh Gaikwad and assault on others including his bodyguard. The role of the applicants in assaulting and restraining the security personnel—who was duty-bound to protect the victim, forms an integral part of this unlawful act.

28. At this stage, it is relevant to examine the applicability of Section 149 of the Indian Penal Code, which creates a constructive or vicarious liability upon every member of an unlawful assembly for acts committed in prosecution of the common object or when the members knew that such acts were likely to be committed.

29. The Supreme Court in *Lalji v. State of U.P.*, (1989) 1 SCC 437, has held that once the case falls within the sweep of Section 149, every member of the unlawful assembly is vicariously liable for the offence committed in prosecution of the common object of that assembly.

30. Further, in *Shambhu Nath Singh v. State of Bihar*, AIR 1960 SC 725, the Court made it clear that even non-participation in the actual assault would not absolve a person if he was a member of the unlawful assembly and the offence committed was within the knowledge of the members.

31. In *Krishna Govind Patil v. State of Maharashtra*, AIR 1963 SC 1413, it was observed that the common object may develop at the spur of the moment, and what is relevant is the continued presence and active association during the act. In the present case, the applicants did not withdraw or oppose the unlawful act but, on the contrary, facilitated the commission of the crime by overpowering the only person (the bodyguard) who could have lawfully intervened.

32. A Constitution Bench in *Masalti v. State of U.P.*, AIR 1965 SC 202, clarified that where each member plays a role, even if no specific injury is attributed to him, he may still be held liable under Section 149 if the act was in furtherance of the common object.

33. Recently, the Supreme Court in *State of Maharashtra v. Ramlal Devappa Rathod*, (2015) 15 SCC 77, reiterated that even if no specific role is assigned, if the accused was present and part of the unlawful assembly with knowledge of the object, Section 149 is attracted.

34. Applying the above principles to the present case, the applicants' physical acts of restraining and assaulting the bodyguard while the principal accused fired at the victim is a strong prima facie circumstance indicating that they were acting in furtherance of a common object. Their conduct is not isolated or disconnected, but directly linked to the commission of the offence punishable under Section 307 read with Section 149 IPC.

35. Hence, the prosecution has made out a prima facie case that the applicants were not merely present but were active members of

the unlawful assembly with full knowledge of the object and likely consequences. The electronic evidence (CCTV), corroborating eyewitness accounts, and the setting of the incident within a police station, further aggravate their culpability and render this Court unable to accept their plea for bail.

36. At the stage of deciding a bail application, the Court is not expected to conduct a mini-trial. However, the seriousness of the offence, the manner of its commission, the nature of evidence, and the role attributed to the accused are all relevant factors that must be given due weight. In the present case, all these factors strongly indicate that the applicants cannot be treated at par with peripheral or uninvolved persons.

37. Hence, keeping in view the gravity of the offence, the serious and specific role played by the applicants, the supporting electronic and ocular evidence, and the impact on public confidence in the justice system, I am of the considered view that this is not a fit case for grant of bail at this stage.

38. In view of the above discussion, this Court finds that the applicants are alleged to have played an active and facilitating role in the commission of a grave offence involving use of firearm, committed inside the police station. Their conduct, as revealed through CCTV footage and corroborated by witness statements, indicates that they not only obstructed a public servant in discharge of his duty but also directly assisted the principal accused in carrying out a violent and life-threatening assault. The allegations against them are not vague or baseless, but are

supported by reliable evidence.

39. The incident is not just an isolated act of violence, but one that threatens the very fabric of law and order. If such conduct is condoned or treated leniently at the stage of bail, it may send a wrong signal to society and undermine public faith in the legal system.

40. In the totality of facts and circumstances, I am of the considered view that this is not a fit case for exercise of discretion in favour of the applicants.

41. Accordingly, the bail applications stand rejected.

42. It is clarified that the observations made in this order are only for the purpose of considering the bail application, and shall not be construed as an expression on the merits of the case at the stage of trial.

43. In view of this order, all pending interim application(s) stand disposed of.

(AMIT BORKAR, J.)