

AGK

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

BAIL APPLICATION NO.2438 OF 2025

Pawan Jagdish Mhatre

... Applicant

V/s.

The State of Maharashtra

... Respondent

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Mr. D.S. Mhaispurkar with Mr. Sumedh S. Modak for
the applicant.

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

Mr. R.R. Dangat, API, Khadakpada Police Station,
Kalyan, is present.

CORAM : AMIT BORKAR, J.

DATED : AUGUST 1, 2025

P.C.:

1. The present bail application is filed by the applicant under Section 483 of the Bhartiya Nagarik Suraksha Sanhita, 2023 (“BNSS” for short), seeking his release on regular bail in connection with Crime Register No. 60 of 2021, registered with Khadakpada Police Station, Kalyan. The applicant is charged for serious offences punishable under Sections 302 (murder), 307 (attempt to murder), and 397 (robbery with attempt to cause death or grievous hurt) of the Indian Penal Code, 1860 (“IPC” for short), along with Sections 3, 25, and 27 of the Indian Arms Act, 1959 and Sections 37(1) and 135 of the Maharashtra Police Act, 1951.

2. As per the prosecution story, on 21st February 2021, a *Haldi* ceremony was organized by Tushar and Bharat Ghode. Several relatives and invitees were present at the function. Around 11:45 p.m., the complainant was seated near the house of one Jagdish Mhatre. At that time, Pawan Mhatre, who is the son of Jagdish Mhatre and also a relative of the complainant, called him and asked that the complainant send his mother to their house. Accordingly, the complainant's mother went to the first floor of Pawan Mhatre's residence. After some time, the complainant's sister Kavita came looking for their mother. On reaching Pawan Mhatre's residence, she found the premises in a disturbed state and began to cry loudly. Hearing this, the complainant rushed to the spot and upon entering the bedroom, found his mother unconscious on the floor with injuries to her head and bleeding. At that time, Bharti, the mother of Pawan Mhatre, was seen giving chest compressions to the injured woman. No one else was present in the room. Due to the commotion, other invitees gathered and the complainant's mother was taken to the hospital for treatment.

3. The learned Advocate appearing for the applicant submitted that the applicant has been in custody since 22nd February 2021. Although the charges have already been framed in the year 2022, the trial has not progressed meaningfully due to non-availability or absence of the Special Public Prosecutor. It is submitted that the delay in conducting the trial is not caused by the applicant in any manner. The learned Advocate further contended that the prosecution case is primarily based on circumstantial evidence, and there is no direct eye-witness account connecting the applicant

with the alleged crime. Considering the prolonged incarceration of the applicant without progress in trial and keeping in view the fundamental right to life and personal liberty under Article 21 of the Constitution of India, the learned counsel prayed for granting regular bail to the applicant.

4. On the other hand, the learned APP has strongly opposed the bail plea. It is submitted that the chain of circumstances established by the prosecution forms a complete and cogent sequence, pointing solely towards the guilt of the applicant. It is argued that the prosecution's key witness is the applicant's own mother, and if released on bail, there is every likelihood that the applicant may pressurize or influence her testimony. Further, the learned APP pointed out that the applicant had sent an amount of ₹10,000/- to one of his friends for the purchase of a pistol, which, according to the prosecution, was used in the commission of the crime. In light of these circumstances, the learned APP submitted that the gravity of the offence, the strong circumstantial evidence, and the likelihood of tampering with key witnesses are sufficient grounds to reject the bail application.

5. I have carefully considered the submissions advanced by the learned Advocate for the applicant as well as the learned APP for the State. I have also perused the material placed on record, including the FIR, charge-sheet, and other relevant documents.

6. At the outset, it is to be noted that the applicant has been in custody since 22nd February 2021, and thus has undergone incarceration for more than four years. Although the charges were

framed in the year 2022, the trial has not proceeded meaningfully. It is brought on record that repeated adjournments have been granted due to the absence of the Special Public Prosecutor. Hence, the delay in trial is not attributable to the applicant.

7. As regards the nature of evidence, it is seen that the prosecution case is based entirely on circumstantial evidence. There is no eye-witness who has directly seen the applicant committing the alleged offence. While the prosecution has sought to establish a chain of circumstances, the completeness and credibility of such chain can only be tested during the course of trial. At the stage of bail, the Court is not expected to meticulously examine the truthfulness of each circumstance, but is only to see whether the evidence, prima facie, justifies continued detention.

8. So far as the apprehension raised by the prosecution regarding the applicant's possibility to influence his mother (who is also a prosecution witness), it must be noted that such an apprehension, though relevant, cannot be treated as conclusive or overriding. Adequate bail conditions can be imposed to ensure that the applicant does not interfere with or attempt to influence any witness.

9. As regards the allegation that the applicant had sent Rs.10,000/- to his friend for purchase of a pistol, such assertion is yet to be proved in trial. There is no recovery of firearm directly at the instance of the applicant. The allegation is, at best, inferential and calls for deeper scrutiny during trial.

10. The right to a speedy trial is a fundamental facet of Article 21 of the Constitution of India. Where the prosecution fails to conduct trial within a reasonable period, and where the accused has remained in custody for long without progress in the trial, the Courts are duty-bound to consider bail, especially when the trial is not likely to commence in the near future.

11. In the present case, considering the prolonged incarceration of the applicant, the delay in trial not attributable to the applicant, the circumstantial nature of the evidence, and the fact that appropriate conditions can be imposed to safeguard the interest of justice, I am of the opinion that further detention of the applicant is not warranted.

12. Accordingly, the applicant deserves to be released on regular bail, subject to stringent conditions to ensure his presence during trial and to prevent any possibility of tampering with evidence or influencing witnesses.

13. Hence, following order is passed:

- i) The bail application is allowed;
- ii) The applicant is directed to be released on regular bail in connection with Crime Register No.60 of 2021 registered with Khadakpada Police Station, Kalyan for offences punishable under Sections 302, 307, and 397 of the Indian Penal Code, 1860 ("IPC" for short) and Sections 3, 25, and 27 of the Indian Arms Act, 1959 and Sections 37(1) and 135 of the Maharashtra Police Act, 1951, upon furnishing a personal bond of Rs.50,000/- (Rupees Fifty Thousand Only)

with one or more solvent sureties in the like amount, to the satisfaction of the 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, particularly family members of the deceased.

(b) The applicant shall report to the Khadakpada Police Station, Kalyan once in a month, specifically on the 1st Monday, between 10:00 a.m. and 12:00 noon, until further orders.

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

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

(e) The applicant shall, at the time of furnishing surety, provide his current residential address and mobile number to the Investigating Officer as well as the Trial Court, and shall inform the Court in writing of any change in residence or contact details during the pendency of the case.

(f) For a period of three months from today, the applicant shall not enter the jurisdiction of concerned Police Station.

(g) In case of any breach of the conditions mentioned above, the prosecution shall be at liberty to move for cancellation of bail.

14. The Trial Court shall complete recording statement of applicant's mother within three months from today.
15. The bail application is allowed and disposed of.

(AMIT BORKAR, J.)