

Nikita

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

BAIL APPLICATION NO.2484 OF 2025

Ajinkya Chandrakant Gandle ... Applicant

V/s.

The State of Maharashtra ... Respondent

Digitally
signed by
NIKITA
KAILAS
DARADE
Date: 07.07.2025
21:28:45
+0530

Mr. Sangram Desai i/b Mr. Aadesh Konde Deshmukh
for the Applicant.

Mr. T. G. Khan, APP for the State.

Mr. Kiran Lite, PSI, Sinhgad Police Station, Pune.

CORAM : ASHWIN D. BHOBE, J.

DATED : 7th JULY, 2025

P.C.:

1. Heard Mr. Sangram Desai learned Advocate for the Applicant. Mr. T. G. Khan, learned APP for the State.

2. By the present application filed under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023, Applicant is seeking bail in connection with C. R. No.682 of 2024 registered with Sinhagad Road Police Station, Pune for the offences punishable under Sections 103(1), 109, 118(2), 115(2), 352 and 3(5) of BNS. FIR has been registered at the instance of Netaji Sopan Bhagat, father of Samarth (deceased). There are four Accused in the crime. Gaurav Sanjay Kute (Accused No.1), Rahul Somnath Lohar (Accused No.2), Applicant is Accused No.3 and Sushant Suresh

Kute (Accused No.4). Said crime is now registered as Sessions Case No.217 of 2025.

3. Case of the prosecution is that on 25.11.2024 Samarth Bhagat (Samarth) was found removing petrol from motorcycle as the fuel tank of his motor cycle had gone empty. Samarth was caught by the people and assuming him to be a thief, taken to the office of the Accused No.4, where he was assaulted by the Accused by means of cycle chain, wooden log, kicks and fist blows.

Initially, a crime of attempt to murder was registered. However as Samarth succumbed to the injuries on 01.12.2024, the Accused were charged with murder of Samarth.

4. Bail Application filed by the Applicant at Exhibit-3 in Sessions Case No.217 of 2025 was dismissed by the learned Additional Sessions Judge Pune on 03.05.2025.

5. Mr. Sangram Desai, learned Advocate for the Applicant submits that the allegations against the Applicant are of assaulting the Applicant on the leg and rear of Samarth. He submits that though, the incident is alleged to have taken place on 25.11.2024, Samarth died on 01.12.2024, i.e. almost seven days of the incident. He submits that the Medical Report of the deceased indicate that Samarth on the date of assault was highly intoxicated. He submits that the page No. 46 of the paper book is the report of Health Investigation and Injuries Certificate conducted on Samarth on 27.11.2024. He submits that the report gives the detail of injuries caused to Samarth. By pointing out page No.48 he submits that there are no head injuries shown or found

on Samarth on the date of his examination i.e. 27.11.2024. He submits that the postmortem report of the deceased at page No.284 and more particularly page No.286 indicates injuries to the head of Samarth. He submits that even otherwise Samarth was caught red-handed at the time of stealing petrol from some other vehicle. He submits that there was no intention to kill Samarth. By pointing out the statements of the eye-witnesses, Mr. Sangram Desai, learned Advocate for the Applicant, submits that there are inconsistencies in their statements.

6. Mr. Khan, learned APP for the state submits that from the manner in which Samarth was assaulted by the Accused in the said crime, it is more than evident that the accused had the intentions to kill Samarth. He submits that the eye-witnesses to the present crime have implicated the Applicant in the present crime. He submits that the postmortem report conducted on the Applicant as on 01.12.2024, clearly records the injuries caused to Samarth on his head which resulted in the death of Samarth. He submits that one of the witnesses has named the Applicant and stated that he was seen with a chain in his hand. Mr. Khan submits that the witnesses in the crime have made reference to the other Accused and their role in the said crime.

7. I have perused the record with the able assistance of learned Advocates for the parties.

8. Records reveal that after the assault, Samarth was examined by the HOD, Department of Surgery, Smt. Kashibai Navale Medical College and General Hospital Ambegaon Pune on 27.11.2024 and

a detailed report of Health, Investigation and Injury Certificate of Samarth was submitted. Said report dated 27.11.2024 is a detailed report of the injuries suffered by Samarth, which is at page Nos.46 to 49. Perusal of the said report dated 27.11.2024 does not indicate any injury on the head or any vital part of the body of Samarth. Though, there are three eye-witnesses to the incident of 25.11.2024, none of the witnesses have referred to Samarth being assaulted on the head.

9. Samarth succumbed to the injuries on the 01.12.2024. Postmortem conducted on 01.12.2024, indicate Samarth having succumbed to injuries caused to his head. Mr. Sangram Desai is right in his submission that if Samarth had suffered head injuries on 01.12.2024, then the same would have been detected and referred to in the report dated 27.11.2024 of Health, Investigation and Injury Certificate of Samarth. Samarth was found intoxicated as per the report of Smt. Kashibai Navale Medical College and General Hospital Ambegaon Pune. There is no explanation offered by the prosecution in respect of the said head injuries suffered by Samarth.

10. After going through the statements of eye-witnesses, it appears that the offence is not pre-meditated. It occurred at the spur of the moment. From the nature of allegations and the reason for the alleged assault on Samarth, *prima facie* does not indicate the Applicant having any intention to kill Samarth. Applicant is a 19 year old student.

11. In the above referred backdrop, since the charge-sheet is

filed, the further custody of the Applicant pending the trial is not necessary.

12. Learned APP has expressed apprehension of the Applicant pressurizing the prosecution witnesses. Mr. Sangram Desai, on instructions of the Applicant, makes a statement that the Applicant is ready to abide by all conditions and that the Applicant shall not enter the territorial jurisdiction of Sinhagad Road Police Station, Pune, till the conclusion of trial in Sessions Case No.217 of 2025. Statement is accepted.

13. In view of the above, the Applicant is entitled to bail, on the following conditions:

- a) Applicant is directed to be released on bail in connection with C. R. No.682 of 2024 registered with Sinhagad Road Police Station, Pune on his furnishing PR bond in the sum of Rs.25,000/- with one or two sureties in the like amount to the satisfaction of Additional Sessions Judge Pune.
- b) Applicant shall attend and regularly appear before the Additional Sessions Judge Pune, in Sessions Case No.217 of 2025 on each date of hearing, unless specifically exempted by the Court.
- c) Applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with facts of the case so as to dissuade him from disclosing the facts to the Court or any police officer and shall not tamper with evidence.

d) Applicant upon his release, within 3 days shall furnish to the Investigation Officer, Sinhagad Road Police Station, Pune his residential address with proof and the contact number and to keep the Investigation Officer intimated about the change in the same from time to time.

e) Applicant shall not enter the territorial jurisdiction of the Sinhagad Road Police Station, till conclusion of the Trial in Sessions Case No.217 of 2025

14. The Bail Application No.2484 of 2025 is allowed.

(ASHWIN D. BHOBE. J.)