

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

BAIL APPLICATION NO.2519 OF 2025

Gautam Rajesh Jha Applicant
versus
The State of Maharashtra Respondent
.....

- Mr. Shriganesh Salba Sawalkar a/w Adira Tandan, Advocate for Applicant.
- Ms. Manisha R. Tidke, APP for the State/Respondent.

CORAM : DR. NEELA GOKHALE, J.
DATE : 09th DECEMBER, 2025

P.C. :

1. The Applicant seeks his release on bail in connection with FIR No.128/2022 dated 09/04/2022 registered with Madhyavarti Police Station, Thane City, for the offences punishable under sections 302, 394, 397 r/w 34 of the Indian Penal Code.
2. It is the story of the prosecution, based on the statement given by the son of the deceased that, the deceased was in the habit of going to the public toilet at 05.00 am. every

day. On the fatal day i.e. 09/04/2022, at around 05.15 am., the deceased left home to go to the public toilet. He was carrying a mobile phone belonging to the First Informant of OPPO Company-A3S. His own mobile phone was at home. Since he did not return home till 08.30 am., the First Informant was worried and therefore he went in search of his father. On the road leading to the public toilet, he was informed by two people that around 05.15 am., one person who was walking towards the public toilet, was beaten up by two assailants on a motorcycle and was left on the road in injured condition. The First Informant went to the hospital where his father was taken and learned of his father's death. Hence, the FIR was registered.

3. On investigation including the CCTV footage obtained from the CCTV cameras, the present Applicant and co-accused one Gautam Jha were arrested on 12/04/2022 at about 09.00 pm. The Applicant is the accused No.1. He was the pillion rider on the motorcycle, who actually grabbed the mobile phone from the deceased's hand and stabbed him with a knife.

4. Mr. Shriganesh Sawalkar, learned counsel appearing on behalf of the Applicant, seeks to draw a parallel with the case of the co-accused, who is enlarged on bail by this Court. He also submits that the principle of long incarceration applies to the present Applicant. Learned counsel further submits that the entire evidence is circumstantial in nature. The description of the assaulter and the vehicle is not identified in the CCTV footage. The extra-judicial confession is a weak piece of evidence. He also submits that the knife has been recovered from the applicant after a period of 9 days. He submits that therefore the Applicant be enlarged on bail.

5. Per contra, Ms. Manisha R. Tidke, learned APP submits that the knife was recovered at the behest of the present Applicant. The CCTV camera footage of 8 cameras clearly shows the identity of the present Applicant, as the pillion rider who stabbed the deceased and snatched his mobile phone.

6. Ms. Tidke also drew my attention to the statement of the eyewitness Surendrasingh Balecha dated 16/04/2022, who has seen the entire incident, as it happened. She also points to the Nivedan Panchanama recording the recovery of the clothes of the Applicant in furtherance of a disclosure statement. Ms. Tidke has placed on record the details of the antecedents as against the present Applicant. There are as many as two antecedents concerning offences under the Indian Penal Code registered against the present Applicant. She also drew my attention to the extra-judicial confessional statement of the present Applicant made to his friend. She thus, resists the Bail Application and prays that the application be rejected.

7. I have heard both the counsels and have perused the record with their assistance. Neither the principle of parity nor the issue of long incarceration enures to the benefit of the present Applicant. The knife which was the weapon of assault, was recovered from the Applicant. Similarly, there are antecedents against the present Applicant. There is also an

extra-judicial confession given by the present Applicant to his friend, which also indicates the complicity of the present Applicant in the said offence. As far as the co-accused is concerned, the role attributed to him is distinct from the role attributed to the present Applicant inasmuch as, it is the present Applicant who stabbed the deceased. There is substantial material on record to *prima facie* establish the complicity of the the Applicant in the present offence.

8. The Applicant has suffered three years of incarceration but the maximum sentence prescribed for the offence as alleged is upto life imprisonment. Hence no case is made out on the grounds of long incarceration. For all these reasons, I am not inclined to enlarge the Applicant on bail.

9. The application is rejected.

(DR. NEELA GOKHALE, J.)