

AGK

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

BAIL APPLICATION NO.2894 OF 2025

Naresh @ Lefti Vasumal Vaswani	... Applicant
V/s.	
State of Maharashtra	... Respondent

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Mr. Gulab Yadav with Ms. Chanda Yadav & Ms. Sarita Khapekar i/b Mr. Harish Sarode for the applicant.

Mrs. Megha S. Bajoria, APP for the State – respondent.

Mr. Yogesh Ghodake, PSI, Vitthalwadi Police Station, is present.

CORAM : AMIT BORKAR, J.

DATED : AUGUST 1, 2025

P.C.:

1. The present bail application is preferred by the applicant under Section 439 of the Code of Criminal Procedure, 1973, praying for his release on bail in connection with Crime Register No. 303 of 2021 registered with Vithalwadi Police Station. The applicant is facing serious charges under Sections 302 (murder), 307 (attempt to murder), 353 (assault or criminal force to deter public servant from discharge of duty), 333, 326, 143, 147, 148, 149, 201 and 212 of the Indian Penal Code, 1860. Apart from the IPC offences, offences under Sections 37(1) and 135 of the Maharashtra Police Act, 1951 have also been invoked against him.

2. The prosecution case, in brief, is that the informant, while undergoing treatment at Shree Devi Hospital, Kalyan, gave his statement to the police on 10 September 2010 in a conscious and fit condition. In his statement, the informant stated that on the night of 9 September 2010, around 11:00 p.m., he, along with his friends Manu @ Naga Sharma (Accused No.2) and Jamnumal, had gone to Hotel Sai Palace at Nevali Naka for dinner. They travelled in a Scorpio vehicle belonging to one Raju Wasumal Mohinani. While they were having dinner, Accused No.1, Mirchu Sharma, along with Accused No.3, Dayal Mulchandani and an unidentified person, came to the hotel. Suddenly, Accused No.1 and the unknown accomplice opened fire at the informant using pistols. The informant sustained three bullet injuries, one on the left shoulder, another near the ribs above the waist, and a third on the right side of the stomach. Attempting to save himself, the informant raised an alarm and ran outside the hotel. At that moment, the accused persons entered a Santro car and deliberately drove it into the informant, causing him to fall down. Thereafter, the accused fled the scene. The incident took place between 12:30 a.m. and 1:00 a.m. on 10 September 2010. On the basis of the statement given by the informant at the hospital, a criminal case was registered against the accused persons including the present applicant.

3. Learned advocate for the applicant submitted that the applicant has been in judicial custody for a substantial period of 3 years and 9 months. He pointed out that in Bail Application No. 176 of 2025 filed by a co-accused, this Court had already directed

the Trial Court to conclude the trial within one year. However, the trial has not commenced, and even the charges are not framed so far. One of the co-accused is also implicated in an offence under the Maharashtra Control of Organised Crime Act (MCOCA), and till the MCOCA trial is concluded, the present trial cannot proceed. It is further submitted that out of six accused persons, three have already been granted bail by the Trial Court and one is protected by an anticipatory bail order. In such circumstances, there is hardly any likelihood of early conclusion of trial in the near future. Therefore, continued incarceration of the applicant would amount to pre-trial punishment, which is not the object of detention pending trial. The applicant, therefore, seeks his release on regular bail.

4. On the other hand, learned APP has opposed the application and submitted that the applicant's previous bail application was rejected on merits by a coordinate Bench of this Court vide order dated 8 February 2024. The said order was challenged by the applicant before the Hon'ble Supreme Court by filing Special Leave Petition, which came to be dismissed on 23 October 2024, thereby confirming the view taken by this Court. As per the prosecution case, the applicant, along with co-accused Shashi, was armed with a knife and inflicted injuries upon the informant and the deceased. The medical evidence also supports the role attributed to the applicant. It is, therefore, submitted that there is no change in circumstances since the earlier rejection of bail, and the applicant's continued custody is justified considering the seriousness and gravity of the alleged offence. The learned APP, therefore, prayed

for rejection of the bail application.

5. I have carefully considered the submissions advanced by the learned counsel for the applicant and the learned APP for the State. I have also perused the earlier order passed by the coordinate Bench of this Court dated 8 February 2024, as well as the order of the Supreme Court dated 23 October 2024, whereby the rejection of bail was affirmed.

6. It is evident from the record that the allegations against the applicant are of serious nature. The FIR and the statement of the first informant disclose that the applicant, along with other co-accused, was part of an unlawful assembly armed with deadly weapons and took active part in the assault. The informant sustained bullet injuries and was later also struck by a vehicle allegedly driven by the accused persons in an attempt to cause further harm. One person succumbed to injuries, and the nature of the assault suggests premeditated and organised violence.

7. The role attributed to the present applicant is not of a mere bystander or passive associate. According to the prosecution, he was armed with a knife and played an active role in causing injuries to the first informant and the deceased. The medical evidence supports the allegation that grievous injuries were caused using sharp-edged weapons. The involvement of the applicant thus appears to be direct and not peripheral.

8. Further, the applicant has not been able to show any substantial change in circumstance after the rejection of his earlier bail application by the coordinate Bench of this Court, which

rejection has been confirmed by the Supreme Court. It is a settled position of law that successive bail applications must be based on fresh grounds or material developments. In the present case, apart from the delay in trial, which is primarily due to procedural complications arising from a co-accused being prosecuted under MCOCA, no other new circumstance is brought to the fore.

9. At this stage, this Court is not inclined to re-evaluate the merits of the prosecution case, which has already been considered in detail by the coordinate Bench. The gravity of the offence, the role attributed to the applicant, the use of deadly weapons, and the fatal outcome, all weigh against granting the indulgence of bail.

10. In view of the above discussion, I do not find any merit in the present application.

11. Accordingly, the bail application stands rejected.

(AMIT BORKAR, J.)