

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

Bail Application No.3087 of 2025

Samir Mehmood Shaikh

Age: 43 years, Occ: Driver,

R/at: Annabhau Sathaye Housing Society,

Milind Nagar, in front of Latipmiyya Masjid,

Tal: Pimpri, Dist. : Pune.

... Applicant

Versus

The State of Maharashtra

(At the instance of the P.I.-

Bhor Police Station.)

... Respondent

Mr Aniket Nikam, a/w. Mr Devendra Kale, Ms Sheetal Shinde,

Mr Dushyant Digambar, i/b Mr Amit Icham, for the applicant.

Mr MG Patil, APP, for the respondent/ State.

PSI Anil Chavan, Bhor Police Station, Pune Rural, is present.

Coram: R.N. Laddha, J.

Date: 24 September 2025.

P.C.:

By this application, the applicant seeks bail under Section 439 of the Code of Criminal Procedure, 1973, in connection with CR No.51 of 2023, registered at Bhor Police Station, Pune Rural, for offences punishable under Sections 302, 364, and 201 read with 34 of the Indian Penal Code.

2. It is the case of the prosecution that on 16 March 2023, a

First Information Report (FIR) came to be registered at the instance of one Sudhir Dighe, who reported the discovery of an unidentified male corpse, found upon the hillside slope adjoining the Bhor–Mahad Road. Upon commencement of the investigation, it was revealed that a prior Missing Persons Report had been lodged by one Shivram Pilani, the father of the deceased. The report stated that the deceased had departed from his residence on 10 March 2023, after informing his family members that the co-accused, Akshay, required his assistance with an undisclosed task. Thereafter, the deceased did not return home, and the family received no further communication of his whereabouts.

3. During the course of the investigation, Call Detail Records (CDRs) pertaining to the accused persons were analysed, which disclosed suspicious activities, as well as geolocation data corresponding to the relevant period under scrutiny. Consequent upon their arrest and custodial interrogation, the co-accused, Akshay, made a voluntary statement of confession. In the said statement, he admitted that the deceased was known to him as a close friend, but further disclosed that he had obtained a monetary loan of ₹15,00,000/- from the deceased in the preceding year. The co-accused further confessed that the deceased had been persistently demanding repayment of the

said sum, subjecting him to harassment and constant pressure. Motivated by such financial duress, the co-accused, in conspiracy and concert with the present applicant, enticed the deceased on 10 March 2023 to accompany them in an Ecco vehicle, under the pretext of requiring his presence. Within the said vehicle, the deceased was allegedly intoxicated against his will, and thereafter transported to a forested tract within the territorial limits of Walne Village.

4. The co-accused further confessed that while the deceased was in an incapacitated condition inside the said vehicle, he (the co-accused Akshay) assaulted the deceased upon the head with an iron hammer, whereas the present applicant attacked the deceased with a knife, inflicting grievous injuries upon the neck and abdominal regions. It is further alleged that the deceased was unlawfully confined within the vehicle throughout the ensuing night. On the following day, the accused persons renewed their assault, as a consequence of which the deceased succumbed to his injuries and expired.

5. Subsequent thereto, the accused persons are alleged to have removed and set fire to the garments of the deceased at a roadside location in the vicinity of Khedshivapur. Thereafter, they abandoned the deceased's naked body at the hillside slope

prior to the commencement of the Varandha Ghat, concealing it amidst vegetation and trees, before absconding from the scene of the offence.

6. Mr Aniket Nikam, the learned Counsel appearing on behalf of the applicant, submits that the applicant has been falsely implicated in the present case and that there exists no direct evidence connecting the applicant with the commission of the alleged offence. The learned Counsel contends that the entire case of the prosecution, insofar as it pertains to the applicant, rests solely upon circumstantial evidence, which by its very nature is weak, tenuous, and incapable of sustaining a conviction unless the chain of circumstances is complete and points unerringly to the guilt of the accused. It is further submitted that in the statements of the prosecution witnesses recorded during the investigation, specific allegations have been levelled against the co-accused, Akshay, whereas no direct role or overt act has been attributed to the present applicant. The evidence relied upon by the prosecution thus clearly delineates the involvement of the co-accused alone, without establishing any substantive participation by the applicant in the commission of the alleged crime.

7. The learned Counsel further submits that the alleged

recovery of incriminating material, said to have been effected pursuant to the applicant's arrest, was made from an open spot accessible to the general public. Such recovery, being from a place not exclusively within the control or knowledge of the applicant, is incapable of being considered as incriminating within the meaning of Section 27 of the Indian Evidence Act, 1872. It is also pointed out that the applicant came to be arrested on 27 March 2023. While a charge sheet has indeed been filed by the investigating agency, it is a matter of record that charges have not yet been framed by the learned trial Court. The prolonged incarceration of the applicant prior to the commencement of trial proceedings, in the absence of any cogent material establishing his guilt, amounts to an infringement of his fundamental right to liberty guaranteed under Article 21 of the Constitution of India.

8. Mr Nikam lastly submits that the applicant is a person with a clean antecedental record, having no prior criminal history. He is a permanent resident, unlikely to abscond, tamper with evidence, or influence witnesses. In such circumstances, no useful purpose would be served by continuing to detain the applicant in judicial custody, especially when the trial is not likely to commence in the immediate future.

9. Mr MG Patil, the learned Additional Public Prosecutor representing the respondent/ State, has vehemently opposed the present application for bail. He submits that the offence alleged against the applicant is of a grave and serious nature, having far-reaching implications upon public safety and order. It is further contended that the CDRs pertaining to the applicant and the co-accused *prima facie* demonstrate their close acquaintance and establish the existence of friendly relations between them. The learned APP further submits that, in the event the applicant is enlarged on bail, there exists a substantial and reasonable apprehension that he may tamper with or otherwise interfere with the prosecution evidence, thereby adversely affecting the fair course of trial.

10. Upon a perusal of the case papers and the submissions advanced, it appears that the alleged incident is stated to have occurred on 10 March 2023. However, the missing person complaint was lodged only on 19 March 2023, i.e., after a delay of nine days. The FIR came to be registered subsequently on 27 March 2023. The delay in lodging both the missing complaint and the FIR remains unexplained and is *prima facie* substantial. The prosecution's case is primarily founded upon circumstantial evidence. It appears that the recovery of the deceased's trousers is stated to have been effected from an open

space, which is accessible to the public at large. The evidentiary value of such a recovery, therefore, warrants cautious scrutiny. It further appears that there are no eyewitnesses who have seen the applicant in the company of the deceased immediately prior to the alleged incident. The prosecution witness, one Nilesh, has made specific reference to accused No.1 and one Sahib. However, the applicant has not been named by the said witness. Moreover, the identity of the person named Sahib has not been conclusively established during the investigation. The prosecution claims that certain witnesses had seen the deceased in the company of the applicant. However, none of these witnesses has stated that they were personally acquainted with the applicant, nor have they stated that they have seen the applicant in the company of the deceased. No identification parade (TIP) has been conducted to *prima facie* show the applicant's identity in relation to the alleged incident. Furthermore, the recovery of the deceased's trousers, purportedly at the instance of the applicant, appears to be inconsistent with the contents of the FIR. While the recovery panchanama records that the trousers were found entangled in barbed wire, the FIR categorically alleges that the accused had set fire to the deceased's clothes. This contradiction casts doubt on the credibility of the recovery. At the time of the applicant's arrest, there was no cogent or incriminating material available

on record to implicate him in the commission of the present offence. The applicant has no criminal antecedents and has been in custody since 27 March 2023. It further appears that to date, no charge has been framed against the applicant.

11. Considering the totality of the circumstances, including the unexplained delay in lodging the complaint and the FIR, the absence of direct evidence, the contradictions in the prosecution's case, and the applicant's continued incarceration without framing of charge, this Court is of the view that the applicant is entitled to be released on bail. Hence, the following order:

ORDER

- (i) The applicant shall be released on bail in connection with CR No.51 of 2023, registered at Bhore Police Station, Pune, upon executing a PR Bond of Rs.25,000/- and furnishing one or more sureties in the like amount, to the satisfaction of the trial Court.
- (ii) The applicant, himself or through any other person, shall not tamper with the prosecution evidence or influence witnesses in any manner.
- (iii) The applicant shall regularly attend

and cooperate with the jurisdictional Court
for the expeditious disposal of the case.

12. The application stands disposed of accordingly.

(R.N. Laddha, J.)