

Shabnoor

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

BAIL APPLICATION NO. 3094 OF 2025

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Dashrath Bhagwan Sable

... Applicant

V/s.

State of Maharashtra

... Respondent

Mr. Raju Suryawanshi, for the applicant.

Ms. Shilpa Talhar, APP for the State – respondent.

Mr. R. R. Dangat, API, Khaakpada Police Station is present.

CORAM : AMIT BORKAR, J.

DATED : AUGUST 7, 2025

P.C.:

1. This is an application filed by the applicant under Section 439 of the Code of Criminal Procedure, 1973, seeking his release on regular bail in connection with Crime Register No. I-293 of 2019 registered with Khadakpada Police Station. The applicant is facing charges for offences punishable under Sections 302 (murder), 394 (robbery), 201 (causing disappearance of evidence), and 120B (criminal conspiracy) read with Section 34 (common intention) of the Indian Penal Code, 1860.

2. The prosecution case, in brief, is that on 4th August 2019, one Prasad Bhalchandra Mehandale lodged an FIR at Hill Line Police Station alleging the disappearance of his relative Harshad.

The complainant stated that he lived with his family and was working at Dystar Company in Thane, while his wife was employed with Idochem Company. Both were working during the day from 8 a.m. to 6 p.m. The complainant had become acquainted with a person named Amar through his cousin Harshad. On 8th March 2019, while the complainant was having dinner, Amar called him at about 10:16 p.m. and told him that while Amar was speaking with Harshad over the phone, Harshad appeared to be under attack and soon his phone got switched off.

3. Upon receiving this information, the complainant rushed to Harshad's workplace, where he met Amar. At that time, Amar was accompanied by his friend Vimal. Vimal informed the complainant that he had seen Harshad going towards Wadeghar with two other persons. While searching in that direction, they located Harshad's motorcycle near Ganpati Factory at Wadeghar, but Harshad himself was missing. During the investigation, a security guard working nearby informed the police that Harshad had left the premises with one Gopi on a motorcycle, and that Akash and Vimal had accompanied the applicant. Based on this information, a report came to be lodged against the present applicant and other co-accused.

4. The learned Advocate for the applicant submitted that the applicant has been in custody since 6th August 2019. It is pointed out that the prosecution has cited 18 witnesses, but till date only one witness has been examined. The entire case of the prosecution rests on circumstantial evidence. It was also submitted that one of the co-accused, who is alleged to have had a similar role in the

crime, has already been granted bail by a Co-ordinate Bench of this Court. Furthermore, it is submitted that the applicant does not have any criminal antecedents and has roots in society. Therefore, the learned counsel urged that the applicant be released on bail on appropriate conditions.

5. On the other hand, the learned APP has strongly opposed the bail application. It was submitted that the allegations are grave and pertain to a heinous offence of murder, which shocks the conscience of society. The learned APP pointed out that a mobile phone was recovered at the instance of the applicant, which connects him to the offence. Therefore, it was submitted that the applicant's involvement is not only based on circumstantial evidence but also supported by recovery, and as such, he should not be granted bail.

6. I have carefully considered the submissions made by both sides and have perused the material placed on record. It is true that the allegations against the applicant are serious in nature and the charge includes the offence of murder. However, it also appears that the case of the prosecution is largely based on circumstantial evidence. There is no eyewitness account directly attributing any overt act to the applicant.

7. The applicant has been in custody since 6th August 2019, i.e., for a period of over six years. The prosecution has cited 18 witnesses, but only one witness has been examined till date. There is no satisfactory explanation on record for such delay in conducting the trial. In such circumstances, continued

incarceration of the applicant would amount to pre-trial punishment, which is impermissible in law.

8. It is also material to note that a co-accused, who is stated to have played a similar role in the alleged offence, has been granted bail by a Co-ordinate Bench of this Court. The principle of parity would, therefore, equally apply in favour of the present applicant. It is also an admitted position that the applicant has no prior criminal antecedents, and there is no material to show that he is likely to abscond or tamper with the evidence, if released on bail.

9. The recovery of the mobile phone at the instance of the applicant, though relevant for investigation, by itself, at this stage, does not conclusively establish his complicity, particularly when there is no direct evidence connecting him to the alleged act of murder. In view of the overall circumstances and the prolonged custody, a case for grant of bail is made out.

10. In view of the above discussion and legal position, the following order is passed:

(i) The Bail Application is allowed.

(ii) The applicant shall be released on bail in connection with Crime Register No. I-293 of 2019 registered with Khadakpada Police Station for offences punishable under Sections 302, 394, 201, 120(B) read with 34 of IPC, upon furnishing a Personal Bond of ₹25,000/- (Rupees Twenty-Five Thousand only) along with one or more solvent sureties in the like amount, to the satisfaction of the learned 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.

(b) The applicant shall attend all proceedings before the Trial Court regularly, unless exempted by the Court on valid grounds supported by sufficient cause.

(c) The applicant shall report to the Khadakpada Police Station, Mumbai on the first Monday of every month between 10.00 a.m. and 12.00 noon, until further orders.

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

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

(f) 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.

11. The Bail Application is stands disposed of in above terms.

(AMIT BORKAR, J.)