

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO. 3181 OF 2025

Aayush Pradeep Tayal.

...Applicant.

Versus

State of Maharashtra.

...Respondent.

Mr. Niranjan Mundargi a/w. Ms. Keral Mehta, a/w. Mr. Ashwet Bhoir a/w. Mr. Paras Mithal, & Mr. Onkar Chaudhari, i/b. Mr. Shailesh Kharat, Advocate for the Applicant.

Ms. Veera Shinde, APP(appeared through V.C.), APP for the Respondent-State.

CORAM: ASHWIN D. BHOBE, J.

DATED: 25th AUGUST, 2025.

PC:-

1. Heard Mr. Niranjan Mundargi, learned Advocate for the Applicant and Ms. Veera Shinde, learned APP for State.
2. Applicant, the sole Accused in Crime No. 388 of 2024 registered with Mundhwa Police Station, Pune for the offences punishable under section 105, 281, 125(A) of Bharatiya Nyay Sanhita, 2023 (for short "BNS"), 132, 119/177, 184, 185, 134(A), 134(B) of the Motor Vehicles Act is before this Court seeking bail under section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short "BNSS"). Said crime is registered as Sessions Case No. 998 of 2024 and is pending before the Court of Additional Sessions Judge, Pune.

3. FIR is registered on the basis of the complaint lodged by Akbar Shaikh (Informant), father of Rouf Akbar Shaikh(deceased). Case of the prosecution is that on 11/10/2024, at about 1.35 a.m., deceased Rouf was riding on Access Moped (two wheeler). At that time Applicant's Audi car (motor vehicle) dashed against the two wheeler on which deceased Rouf was travelling. Due to the impact deceased Rouf sustained injuries. Deceased Rouf succumbed to the injuries.

4. Applicant was arrested on 11th October, 2024. Bail Application No. 6614 of 2024 filed by the Applicant was rejected by the Additional Sessions Judge, Pune on 16th November 2024 (page 242). Second Bail Application at Exh. 4 filed by the Applicant in Sessions Case No. 998 of 2024 was rejected by the Additional Sessions Judge, Pune by order dated 15th January, 2025 (page 243). Criminal Bail Application No. 443 of 2025 filed by the Applicant before this Court was withdrawn with liberty to file fresh Bail Application after four months (page 252). Bail Application No. 2609 of 2025 filed by the Applicant before this Court was withdrawn with liberty to approach the Trial Court at the first instance (page 295). Bail Application at Exh. 28 in Sessions Case No. 998 of 2024 was dismissed by the Additional Sessions Judge, Pune by its order dated 30th July, 2025(page 298). While rejecting the said Bail Application, learned Additional Sessions Judge has imposed cost of Rs. One Lakh.

5. Mr. Mundargi, learned Advocate for the Applicant submits that there is no material on record to indicate the Applicant being involved in the crime. At any rate, he submits that there is no material to indicate the Applicant being rash and negligent while driving the motor vehicle. He submits that the statements of eye witnesses in respect of the incident are inconsistent. He

submits that the statement of eye witnesses namely, Amol Eknath Rasge, Snehal Subhash Patil and Vasant Sangle, if considered, would indicate that the fault, if any, in the accident would lie with the two wheeler rider. To clarify, he submits that the statements of the said witnesses, if accepted, would indicate that the incident is in the nature of an accident and would amount to contributory negligence on the part of the motor vehicle as well as two wheeler. He submits that the Applicant does not have any criminal antecedents. He submits that the Applicant is in jail for almost 10 months. He submits that the Applicant has two minor children and also a father who is having several ailments which includes he being paralised. Mr. Mundargi, learned Advocate for the Applicant relies on the order in the case of *Mohammed Amir Javed Shaikh v/s. State of Maharashtra*¹, to submit that the Applicant in the said Bail Application was in identical/similar situation.

6. Ms. Veera Shinde, learned APP by relying on the statement of Snehal Subhash Patil submits that the incident of 11/10/2024 appears to be an accident, result of contributory negligence on the part of the motor vehicle and the two wheeler. She further submits that contents of the alcohol level in the blood sample of the Applicant was found to be more than permissible level. She submits that the cause of death is on account of multiple injuries caused in the said accident.

7. Perused the record with the assistance of the learned Advocates.

8. Records reveal two versions of the incident of 11/10/2024. Two witnesses namely, Amol Rasge and Tushar Rasge in their statements refer to the motor vehicle initially giving a dash to a Activa Scooter on which 3

1 BA No. 2588/2022

persons (Two women and one child) were travelling and thereafter the motor vehicle having dashed the two wheeler of deceased Rouf. Whereas two other witnesses Amit Yadav and Shubham Kharat make a reference to the motor vehicle giving a dash to the two wheeler of deceased Rouf. They do not refer to the involvement of any Activa in the incident of 11/10/2024.

9. Snehal Patil is a witness, whose statement is relied by the Applicant as well as by the prosecution to indicate that the incident on the fateful day i.e. of 11th October, 2024 was an accident between motor vehicle and the two wheeler of the deceased Rouf. Perusal of the said statement, said accident prima facie appears to be a case of contributory negligence.

10. Records indicate that the Applicant was under the influence of alcohol as per the report at page 169-170. Percentage of alcohol found in the blood was 0.203 gms., which was much beyond the permissible limit. In view of which, the Applicant has been charged for committing offence under Section 105 of BNS, 2023.

11. The question in the present crime is whether the Applicant has caused accident due to rash and negligent driving or whether it is the case of negligent act with the knowledge of the likelihood of its dangerous consequence or whether the accident is a case of contributory negligence, is a matter of trial. Applicant is in custody since 11th October, 2024. Charge-sheet has been filed, however, trial has not yet commenced. Considering the material on record, the facts and circumstances of the present case, the Applicant having no antecedents, there being no apprehension of Applicant tampering with evidence, this would be a case to exercise discretion under section 483 of the BNSS in favour of the Applicant.

12. Mr. Mundargi has raised another issue i.e. the Additional Sessions Judge, Pune imposing cost of Rs. One Lakh on the Applicant. He refers to paragraph-38 of the order dated 30th July, 2025, giving reasons for imposition of cost. Paragraph-38 is extracted herein below:

38. In view of above said discussion, I have come to conclusion that, application Exh. 28 is deserves to be rejected with costs to the tune of Rs. 1,00,000/- on account of abuse the process of law by accused time to time, payable to District Legal Service Authority, Pune within 15 days from today. With this, I proceed to pass the following order:

13. Mr. Mundargi, learned Advocate for the Applicant submits that the Applicant had approached the Trial Court in terms of the liberty granted by this Court and at any rate, the Applicant was seeking his liberty. In such circumstances, he submits that act of the Applicant in filing Bail Application by no stretch of imagination can be termed to be abuse of the process of law.

14. Ms. Shinde, learned APP for the State fairly submits that the Applicant being granted liberty to approach the Trial Court, the same would not amount to abuse of process of law.

15. It is trite law, that right to bail though not absolute is a crucial aspect of personal liberty. Applicant was before the Trial Court enforcing his right to be released on bail, pursuant to the liberty granted by this Court. In my opinion, reason assigned for imposing the cost are not tenable and is liable to be set aside. The findings and reasons for imposing cost in the order dated 30th July, 2025 passed at Exh. 28 in Sessions Case No. 998 of 2024 are set aside.

16. Mr. Mundargi, learned Advocate for the Applicant states that the Applicant had without prejudice complied with the order and deposited the

said amount before the learned Trial Court. As the said directions are set aside, Mr. Mundargi on instructions from the Applicant submits that the said amount can be used for any cause which this Court deems fit and proper. Ms. Shinde, learned APP states that the said amount of Rs. One Lakh including any other goodwill gesture that the Applicant may show, be paid to the family of the deceased Rouf.

17. Mr. Mundargi again on instructions from Applicant submits that the vehicle involved in the accident is registered in the name of the Company- UKB Electronics Private Ltd. He submits that Company towards its Corporate Social Responsibility (CSR) is willing to deposit an amount of Rs. 5 Lakhs before this Court.

18. He submits that the such deposit, however, would be without prejudice to any of the rights and contentions of the Applicant. Mr. Mundargi, learned Advocate for the Applicant submits that the amount of Rs. 5 Lakhs shall be deposited in this Court within a period of one week from today.

19. Ms. Veera Shinde, learned APP has furnished the Bank detail of the Informant to Mr. Mundargi, learned Advocate for the Applicant. Applicant is at liberty to transfer the said amount to the account of the Informant. Registry of the Trial Court is directed to transfer the amount of Rs. 1,00,000/- deposited by the Applicant in Sessions Case No. 998 of 2024 pursuant to the order dated 30/07/2025, to the account of the Informant within 15 days from today. Investigation Officer in the present crime to furnish the Bank account details to the Registry of the Trial Court within 10 days from today.

20. It is clarified that the deposit/payment of the amount of Rs.

6,00,000/- is without prejudice to the right of the Applicant and without prejudice to any of the right of the family of the deceased to claim compensation or any other amount under the Motor Vehicles Act, 1988, if entitled. Said amount shall be treated as a step towards Restorative justice and the same is in addition to the amount the family of the deceased may be entitled to claim under any statute.

21. In view of the above, Bail Application is allowed on the following conditions :

(a) Applicant be released on bail in Crime No. 388 of 2024 registered with Mundhwa Police Station, District - Pune upon furnishing PR. Bond in the sum of Rs. 50,000/- with one or two local sureties in the like amount to the satisfaction of the learned Additional Sessions Judge, Pune.

(b) Applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade such person from disclosing the facts to Court or any Police Officer. The Applicant shall not tamper with evidence.

(c) Applicant upon release within 3 days shall furnish his residential addresses with proof and contact details to the Investigating Officer, Mundhwa Police Station, Pune.

(d) Applicant shall attend each and every date of hearing in Sessions Case No. 998 of 2024 before the learned Additional Sessions Judge, Pune, unless exempted.

22. Bail Application No. 3181 of 2025 is allowed and disposed of on the above terms.

23. This order will be digitally signed by the Senior Private Secretary/Private Secretary/Personal Assistant of this Court. All concerned will act on production by fax or email of a digitally signed copy of the order.

(ASHWIN D. BHOBE,J.)