

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

CRIMINAL BAIL APPLICATION NO. 3503 OF 2025

Ganesh Mangesh Kale

...Applicant

Versus

The State of Maharashtra

...Respondent

Mr. Vaibhav R. Gargade, learned Advocate for the Applicant.
Mr. Dinesh J. Haldankar, learned A.P.P. for the State/Respondent.

**CORAM : ASHWIN D. BHOBE, J.
DATE : 12th DECEMBER 2025.**

P.C. :

1. Heard Mr. Vaibhav Gargade, learned Advocate for the Applicant and Mr. Dinesh Haldankar, learned A.P.P. for the State/Respondent.

2. By the present Application filed under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023 (“**BNSS**” for short), the Applicant is before this Court seeking Regular Bail in connection with Crime No. 462 of 2022, registered with Daund Police Station, Taluka-Daund, District-Pune Rural for the offences punishable under Sections 395 read with Section 34 of the Indian Penal Code Act, 1860 (“**IPC**” for short). Said Crime No. 462 of 2022 is registered as Sessions Case No. 35 of 2023 and is pending before the Court of Additional Sessions Judge, Baramati, District-Pune.

3. Case of the prosecution is that on 18.09.2022 at 1.45 a.m.,

the owner of Sai Transformer Company (Informant) received a call informing him about the dacoity in his company. Informant went to the company and upon inquiry from his employee Akshaykumar Bin, was informed that 6 persons came in the company, tied him and thereafter stole articles worth Rs. 76,500/- from the company.

4. There are 6 accused persons in the present crime. Applicant is Accused No. 1.

5. Applicant along with co-accused was arrested on 02.11.2022. Criminal Bail Application at Exhibit-40 filed by the Applicant in Sessions Case No. 35 of 2023, was rejected by the learned Additional Sessions Judge, Baramati, District-Pune by order dated 09.06.2025.

6. Mr. Vaibhav Gargade, learned Advocate for the Applicant submits that one of the accused persons is absconding. He submits that there is no material placed on record to show that the Applicant being involved in the offence. He submits that the First Information Report was lodged against unknown persons and the name of Applicant has been added subsequently. He submits that there is no recovery at the instance of Applicant. He submits that though the prosecution claim that the Applicant had been identified in the Test Identification Parade, however there is a doubt in the identification as Akshaykumar Bin in his statement has stated that the persons, who committed dacoity, had covered their faces. He submits that though charge is framed in Sessions Case No. 35 of 2023, however trial has not commenced. He submits that the Applicant though has criminal antecedents, the same itself

may not be a ground to continue the Applicant in jail in the present crime. He submits that the co-accused Nilesh Nagnath Pawar (Accused No. 5) is enlarged on bail by the Additional Sessions Judge, Baramati, District-Pune vide order dated 09.06.2025 passed on Exhibit-42. He therefore seeks bail on the ground of parity, as according to Mr. Vaibhav Gargade, the involvement of Applicant and Accused No. 5 in the crime is of a similar nature.

7. Mr. Dinesh Haldankar, learned A.P.P. for the State/Respondent submits that the involvement of Applicant in the crime is seen from the material collected by the Investigating Officer. He submits that the Applicant having criminal antecedents, should not be shown any indulgence. He submits that the Applicant has been identified in the Test Identification Parade.

8. Perused the records with the assistance of learned Advocates for the parties.

9. As per the case of prosecution, Akshaykumar Bin (the employee of Informant) was in the factory premises on the day, the offence is said to have been committed. In his statement, Akshaykumar Bin has made reference to 6 persons being present. He has made the following statement :-

“दि. १७/०९/२०२२ रोजी नेहमी प्रमाणे दिवसभर काम करून रात्रौ ११/०० वा. चे सुमारास झोपलो. मी झोपेत असताना रात्रौ ०१/०० वा. चे सुमारास अनोळखी सहा इसमांनी कंपनीचे टाळे तोडून कंपनीत येवून मला त्या सहा मधील दोन इसमांनी त्यातील एक क्रीम कलरचा फुल बाह्यांचा शर्ट घातलेला वयस्कर इसम अंदाजे ६५ वर्षे तो माझेजवळ येवून मला आरडाओरडा करू नको म्हणुन धमकावून त्याच्याजवळ असलेले चाकु सारखे हत्यार दाखवून त्याने व त्याच्या

सोबत असलेला लाल रंगाचा शर्ट घातलेला व त्यावर निळ्या रंगाचे जॅकेट घातलेला वय अंदाजे २५ वर्षे, असे मला दोघांनी पकडून माझे हात व पाय वायरने बांधून, तोंडात कापडाचा बोळा घालून, इतर चार इसम त्यांचे वय अंदाजे २५ ते ३५ वर्ष दरम्यानचे होते. त्या सर्वांनी त्यांचे चेहरे रूमालने बांधलेली होती. त्यांनी कंपनीच्या गोडाऊनमध्ये ठेवलेली तांब्याची वायर, पितळ व अॅल्युमिनियमचे रॉड तेथुन उचलून चोरून नेले. त्यानंतर माझेजवळ असलेला इसमाने मोबाईल फोन तसेच माझे मालकाने माझेजवळ ठेवलेला फोन माझेकडून हिसकावून घेवून स्वताजवळ घेतले व त्यानंतर ते सर्व इसम तेथुन निघून गेले असे मला सांगितले आहे...”

10. Accused No. 5, who is in the age group of 25 to 35 years, has been released on bail by the learned Additional Sessions Judge, Baramati, District-Pune vide order dated 09.06.2025. There is no recovery at the instance of Applicant in the present crime. Applicant is in jail for almost three years. Age of the Applicant is between 20-35 years. Considering the Accused No. 5 in identical situation having been released on bail, the trial having not commenced for almost a year from framing of the charge, continuation of the Applicant in custody is not warranted.

11. In the facts and circumstances of this case, Applicant having criminal antecedents, would not be a sufficient ground for denial of bail (see paragraph 23 of the judgment of the Hon'ble Supreme Court in *Abhimanyu S/o. Shammi Thilakan v/s. State of Kerala*¹).

12. In view of the above, the present Bail Application is allowed on the following conditions :-

- a. Applicant is directed to be released on bail in connection with Crime No. 462 of 2022, registered with

1. Criminal Appeal Nos. 4197-4199 of 2025 decided on 22.09.2025.

Daund Police Station, Taluka-Daund, District-Pune Rural for the offences punishable under Sections 395 read with Section 34 of the IPC on executing P.R. Bond in the sum of Rs. 25,000/- (Rupees Twenty-Five Thousand Only) with one or two local surety/s in the like amount to the satisfaction of the Additional Sessions Judge, Baramati, District-Pune.

- b. Applicant shall not directly or indirectly make any inducement, threat or promise to any person/s acquainted with facts of accusation, so as to dissuade such a person/s from disclosing the facts to the Court or to any police personnel.
- c. Applicant shall not tamper with the prosecution evidence and shall not contact or influence any witness in any manner.
- d. Applicant upon his release from jail, within a period of three days from his release, shall furnish his cell phone number and residential address with proof to the Investigating Officer, Daund Police Station, Taluka-Daund, District-Pune Rural and shall keep the same updated, in case of any change thereto.
- e. Applicant shall appear and report/attend before the Investigating Officer, Daund Police Station, Taluka-Daund, District-Pune Rural twice in a month on 2nd & 4th Saturday of every month from 12.00 noon to 1.00 p.m. till conclusion of trial of Sessions Case No. 35 of

2023.

- f. Applicant shall co-operate in the conduct of the trial and shall regularly attend the hearing of Sessions Case No. 35 of 2023, pending on the file of Additional Sessions Judge, Baramati, District-Pune, on each and every date, unless exempted from appearance.
- g. Applicant shall not indulge himself in any activities, which are similar to the present crime.

13. Criminal Bail Application No. 3503 of 2025 stands disposed of in the abovesaid terms.

[ASHWIN D. BHOBE, J.]

Digitally signed
by GITALAXMI
KRISHNA
KOTAWADEKAR
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