

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO.3527 OF 2025**

Omprakash Pancham Vishwakarma	...Applicant
<i>Versus</i>	
State of Maharashtra	...Respondent

Mr. Chetan Hadollikar, *with Chirag Phalke, for the applicant.*
Ms Anuja Sunil Gotad, *APP for the Respondent-State.*

CORAM DR. NEELA GOKHALE, J.
DATED: 17TH SEPTEMBER 2025

PC:-

1. By way of this Application, the Applicant seeks his release on bail in connection with C.R.No.153 of 2023 dated 27th June 2023 registered with the Badlapur (West) Police Station, Thane for the offence punishable under Section 302 of the Indian Penal Code, 1860. The charge-sheet is filed and the charges are framed.

2. The case of the prosecution as narrated by the brother of the Victim, one Mr. Akshay @ Ravi Shivnarayan Vishwakarma

is that his sister, i.e., the Victim aged about 37 years, married the Applicant two years prior to the incident. They were residing together in Divyajyot Apartment, Badlapur (West). It is stated that there were regular quarrels between the Applicant and the Victim and the Applicant used to beat up the Victim. The brother has further stated that the family members of the Victim had time and again, on a number of occasions, tried to convince the Applicant that he should not beat or torture her. Despite the same, the Applicant continued to torture and perpetrate physical and mental violence towards the Victim.

3. On 26th June 2023, i.e., day of incident, it is alleged that there was a dispute between the parties because the Victim called up another person, namely, Vijay. The Applicant suspected her character and committed the said offence. He then sent a WhatsApp message to the brother of the Victim that *'he has ended the story and now everybody can relax and live their life freely'*. Thereafter, the said brother tried to call

the Applicant but there was no reply. It was then revealed that his sister, i.e., the Victim had died because of asphyxia. She was found in a supine position on a bed in the house. She was taken to the hospital but was declared dead by the doctor. Hence, the brother of the Victim, i.e., the First Informant lodged the complaint and the said FIR was registered.

4. The Applicant moved an application seeking bail in the Sessions Court, however, by order dated 27th June 2024, the said bail application was rejected. Hence, the Applicant has filed the present bail application in this Court.

5. Heard Mr. Chetan Hadollikar, learned counsel appearing for the Applicant and Ms. Anuja Sunil Gotad, learned APP representing the State.

6. Mr. Hadollikar submitted that there is a discrepancy in respect of the manner in which the Victim died. He points to the post-mortem report, which gives an opinion as to the probable cause of death to be 'death due to asphyxia due to

hanging'. However, posthumous panchanama dated 27th June 2023 records that the death of the victim is by choking and asphyxia. It also notes in the column of description of the body that the neck of the body shows violet, reddish and bluish ligature marks on the neck. Mr. Hadollikar submitted that this discrepancy casts doubts on the story of prosecution. He also states that the offence even if committed, is on sudden provocation and it was not pre-meditated. He further submits that the Applicant is incarcerated for 2 years and 2 months. He thus urges the Court to enlarge him on bail.

7. Per contra, Ms Gotad, learned APP submits that despite the discrepancy, if any, in the posthumous panchnama and the post-mortem opinion given by the medical doctor, the death is due to asphyxia. She also submits that the body was found in supine condition and hence, there is no question that her death was caused by choking her. Her tongue was also found to be protruded from her mouth and stuck between her teeth. Ms Gotad further points to the WhatsApp messages sent

by the Applicant to the brother of the deceased, i.e., the First Informant wherein he has clearly stated that he has ended the story, now everybody is free. She also points to the statement of the First Informant recorded under Section 164 of the Cr.P.C, which is consistent with his original statement. Ms Gotad also draws my attention to the statement of the brother of the deceased recorded under Section 164 of the Cr.P.C that the Applicant clearly texted the brother of the Victim that *'I have killed her and I have ended the story'*. She submits that the statement of the First Informant clearly indicates that the offence was premeditated and not committed by sudden provocation as there were regular quarrels between the Applicant and the Victim and he was prone to beating her and abusing her during their marital life. The statement also indicates that there was persistent torture on part of the Applicant. Ms Gotad says that prosecution is likely to examine maximum 20 witnesses as per the list of the witnesses given in the Trial Court. Charges are framed and the next date of hearing before the Trial Court is 22nd September 2025 for

production of *muddemal*. She thus, strongly resists the bail application.

8. I have carefully considered the rival submissions and perused the investigation papers with the assistance of the counsels. At this stage, it is well settled that the Court, while dealing with an Application for bail in serious offences like murder, etc. has to consider the nature and seriousness of the accusation, the role attributed to the Accused, the evidence collected during the investigation, etc.

9. From the material on record, it *prima facie* appears that it is not a solitary act of the Applicant where he has choked the Victim on sudden provocation. The material on record indicates that the Victim was regularly subjected to domestic violence throughout her married life. The discrepancy in the post-mortem report as well as posthumous panchnama is not of such nature to doubt the manner of death of the Victim. Admittedly, the Victim died due to asphyxia. There were red

ligature marks on her neck.

10. Thus, the offence is of grave nature, punishable with death penalty or imprisonment for life. The manner in which the crime is committed indicates violent conduct which *prima facie* excludes possibility of granting bail. Considering the gravity of allegations, the active role played by the Applicant and, the material collected during investigation, I do not find this case to be a fit case to grant bail or for exercise of discretion in favour of the Applicant under Section 439 of the Cr.P.C.

11. Accordingly bail application is rejected.

(DR. NEELA GOKHALE, J)

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