

Ajit

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO. 3558 OF 2025

Kiran Balaji Shivbhagat	...Applicant
<i>Versus</i>	
State of Maharashtra	...Respondent

Mr. Anima Mishra, a/w Anuj Singh a/w Vinod Patil a/w
Priyanka Patil a/w Ritu Singh i/b Dhaara Legal, for the
applicant.

Ms. Poonam P. Bhosale, APP for the State-Respondent.
API – Tushar Salunkhe, Central Police Station, Ulhasnagar,
Thane, is present.

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

PC:-

1. The Applicant seeks his release on bail in connection with C.R. No. 1130 of 2024 dated 29th October 2024, registered with Central Police Station for offences punishable under Sections 103, 109, 115(2), 238, 352, 351(3), 189(1), 191(2), 49 of Bhartiya Nyaya Sanhita 2023, Section 37(1) of Maharashtra Police Act and Section 4, 25 of Arms Act.

2. The story of the prosecution, as discerned from the FIR, is that the complainant's brother one Ajay Pannalal Chauhan, was allegedly in relationship with one Saroj Singh @ Mamta @ Babli. On this account, the complainant and his brother had a quarrel. The quarrel escalated and all the other accused had verbally exchanged abuses amongst each other. They came on the road and verbal abuses and threats were exchanged. The entire melee turned into a violent scuffle amongst the parties. The co-accused had swords, knives, iron rods as well as wooden rods with them. All the accused in the said scuffle beat up Ajay Chauhan, the victim in the present matter, and ultimately said Ajay Chauhan succumbed to his injuries. It is the case of the prosecution that the present Applicant, being accused No.4, was seen in the CCTV footage at the spot of incident, walking behind the other accused. A complaint was lodged by the brother of the deceased i.e. Ajay Chauhan and the FIR was registered.

3. Ms. Anima Mishra, learned Counsel for the Applicant, submits that the nature of evidence in the present matter is direct. There were 4 to 5 eyewitnesses who have given statements of having witnessed the said incident. She has taken me through their statements. None of them named the present Applicant as having so much as touched the deceased. He was only a bystander and a spectator to the scuffle that took place. She also submits that the Applicant is in custody for the past 6 months and no role is attributed to him in the charge-sheet. The charges are yet to be framed. She thus seeks his enlargement on bail.

4. Per contra, Ms. Poonam Bosale, learned APP, submits that this is a serious offence punishable with death or life imprisonment. She also points out the CCTV footage panchnama, which notes the presence of the present Applicant, seen walking behind and trailing the other accused. She submits that the Applicant is also facing a trial for alleged offences punishable under Section 363, 366 and 376 of the

IPC read with Section 4 of the POCSO Act. She thus submits that although there is no role attributed to the Applicant presently, his presence at the spot of the incident creates a doubt of his involvement in the said incident.

5. In rejoinder, Ms. Mishra has tendered a copy of an order dated 9th April 2018 passed by a co-ordinate Bench of this Court, enlarging the Applicant on bail in the CR which is stated to be an antecedent pertaining to the Applicant. She submits although the said CR arose out of a consensual relationship between the parties, he was implicated in that case. Be that as it may, he is currently facing trial in the said offence.

6. I have heard learned Counsel for respective parties and perused the record with their assistance. Admittedly, none of the eyewitness statements attribute any role to the Applicant in the said incident leading to the death of the victim. Furthermore, even in the CCTV footage panchanama, there is no weapon or any article seen in the hands of the present

Applicant. He is simply seen trailing behind the other co-accused who were walking away from the spot. *Prima facie*, it appears that the Applicant is implicated in the said crime only on account of his presence at the spot of the incident. He has suffered incarceration for 6 months despite no role being attributed to him, even in the charge-sheet. In these circumstances, *prima facie*, it appears that he is implicated despite being a mere spectator to the melee on the road and has been picked up by the police, as being part of the assembly. The antecedent mentioned by the learned APP has no bearing on the offences as alleged in the present case. In any case, there is no similarity in offences in the previous C.R. and the offences in the present C.R. The Applicant is enlarged on bail in the previous case. The previous charges against him do not necessarily make him a possible accessory in the present offence.

7. Considering the aforesaid discussion, I am of the opinion that this is a fit case to grant bail to the Applicant and it is hereby ordered as under:

ORDER

- i) The Applicant be enlarged on bail, on executing PR Bond in the sum of Rs.35,000/ with one or two local sureties in the like amount;
- ii) The Applicant shall attend the Investigating Officer of the concerned police station, one Saturday in every 15 days as per the directions of the Investigating Officer, between 9:00 a.m. to 11:00, till the conclusion of the trial;
- iii) The Applicant shall not enter the jurisdiction of Central Police Station, Ulhasnagar, Thane, except to attend the police station and the Trial Court, till the conclusion of the trial;
- iv) The Applicant shall attend the Trial Court concerned on each and every date as directed, till the conclusion of the trial,

save and except if the Applicant is exempted from appearance by orders of the Trial Court.

v) If the Applicant has not deposited his passport, the Applicant shall deposit the same with the concerned Police Station;

vi) The Applicant shall not leave India, without permission of the trial Court;

vii) The Applicant shall not tamper or attempt to influence or contact the complainant, witnesses or any person concerned with the case;

viii) The Applicant shall inform his latest place of residence and mobile contact number immediately after being released and / or change of residence or mobile details, if any, from time to time to the Court seized of the matter and to the Investigating Officer of the concerned Police Station;

ix) The Applicant to co-operate with the conduct of the trial;

x) Any infraction of the aforesaid conditions shall entail cancellation of bail.

8. Application is allowed in the above terms and is accordingly disposed of.

9. It is made clear that the observations made herein are *prima facie* and are confined to this Application and the Trial Court concerned shall decide the case on its own merits, uninfluenced by the observations made herein.

(DR. NEELA GOKHALE, J)