

Ajit Pathrikar

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO. 3765 OF 2025**

Surendra Prakash Chavan ...Applicant
Versus
State Of Maharashtra ...Respondent

Mr. Prathamesh Gaikwad a/w Surabhi Sawant, for the Applicant.
Ms. Poonam Bhosale, APP for the State-Respondent.
API – Rahul Pol, Vakala Police Station, Mumbai, is present.

CORAM Dr. Neela Gokhale, J.
DATED: 1st October 2025

PC:-

1. The Applicant seeks his release on bail in connection with FIR No. 244 of 2019 dated 25th May 2019 registered with the Worli Police Station, Mumbai. The FIR was originally registered for offense punishable under Section 307 of the Indian Penal Code, 1860 ('IPC'). The FIR records Section 328 of the IPC as well and the same is seen to be struck off the FIR. It is stated that thereafter, the victim succumbed to her injuries and hence, additional charges for offense punishable

under Sections 302, 307, 328 of the IPC are added against the Applicant.

2. The case of the prosecution, in brief, is that the deceased, Rupali, is the real sister of the Applicant. She was living with her mother, her brother i.e. the Applicant and her minor son. She was estranged from her husband and a decree of divorce was passed, dissolving their marriage. According to the statement of the deceased, there were disputes between herself and her brother i.e. the Applicant herein. She alleged that the Applicant was short-tempered and was not doing any job. Her parents were to transfer their dwelling house in the name of the Applicant, however, after her divorce, they decided to include her as well. This was one of the reasons for which the Applicant nursed a grouse against her. The Applicant always expected Rupali to cook and clean the house and when she failed so to do, he would get angry with her.

3. On 24th May 2019, she was running late for her job and hence, she did not fill up the water in the house. She was late

at work hence, she ate dinner outside. When she returned home, she found that her brother was very angry as she had not cooked dinner for him. He abused her in filthy language and also threatened her. She went to sleep at 11.00 pm. In the morning on 25th May 2019, she awoke to a bleeding ear. She saw her brother i.e. the Applicant holding a sickle in his hand. He again slashed a finger on her left hand and injured her thumb, left shoulder as well as her chin and nose with the sickle. On suffering serious injuries, she fell unconscious. Upon regaining consciousness, she found her brother sitting in front of her and saying to her that “despite all these injuries if you are not dead, I will administer poison and kill you.” Rupali, again fell unconscious. On regaining consciousness, she shared her trauma with her friend Arvind Shinde as well as her elder brother Jagannath. She was then, admitted to the hospital and after her treatment was discharged. Few days later, she died. Hence, the complaint was filed with the police pursuant to which the FIR was registered. Post Rupalis death charges under Section 302 and 328 were added.

4. The Applicant made an application for bail before the Additional Sessions Judge of Greater Bombay. However, by order dated 1st September 2024, the said application was rejected. Hence, he has filed the present bail application for the relief as prayed.

5. At the very outset, Ms. Poonam Bhosale, learned APP, on instructions, submits that the prosecution intends to examine as many as 10 witnesses out of which 6 witnesses are already examined. She thus, states that the trial is likely to conclude soon and hence, the bail application may be rejected.

6. *Per contra*, Mr. Prathmesh Gaikwad, learned Counsel for the Applicant, insisted on arguing the matter on merits and hence, I have heard the parties in detail.

7. Mr. Gaikwad submitted that there are many inconsistencies in the statements made by deceased-Rupali and the statements of witnesses who narrated the incident. Then too, he says, that the statements of the witnesses are

heresay. According to him, the nature of evidence is circumstantial and there is no eyewitness. He further submits that details pertaining to calls made etc are not placed on record by the prosecution and there is nothing to establish the presence of the Applicant at the spot of the incident. Mr. Gaikwad also submits that the said Rupali was discharged on 6th June 2019 from the hospital and she died few days later. Thus, her death is totally unconnected with the injuries, allegedly inflicted by the Applicant on her. He also points to the post-mortem report, which according to Mr. Gaikwad, is not consistent with the case of the prosecution. Mr. Gaikwad further submits that the Applicant has suffered incarceration for as many as 6 years and the trial is proceeding at a snail's pace. Hence, on all these grounds, he insists that the Applicant be enlarged on bail.

8. *Per contra*, Ms. Bhosale, learned APP, in addition to her statement, on instructions, that the trial is likely to conclude soon, submits that the sickle, which is the murder weapon, is

recovered at the instance of the Applicant. She also submits, that the clothes were also recovered at the Applicant's behest. She has also pointed to the post-mortem report which records the cause of death as 'cerebropulmonary edema with hepatorenal necrosis as a complication of poisoning (unnatural)'. Most importantly, she points to the order dated 1st October 2024, passed by the Sessions Court, rejecting the Applicant's bail application. She invited my attention to the observations of the Trial Court, wherein it is recorded that the delay in trial is caused by the Applicant and not by the prosecution. On these grounds, Ms. Bhosale resists the bail application and prays that the same be rejected.

9. I have heard the arguments of both the Counsel for the parties and perused the record with their assistance.

10. Undoubtedly, the Applicant is in custody for 6 years. However, the inconsistencies, if any, as alleged by Mr. Gaikwad, can be appreciated by the Trial Court during the trial. The trial is likely to conclude at an early date, since 6

out of 10 witnesses are already examined. I have also perused the deceased's statement. She has very lucidly narrated her trauma and plight that she suffered at the hands of her brother i.e. the Applicant herein. There may be inconsistencies in the timeline as alleged by Mr. Gaikwad, however, in my view, the same are not so significant, so as to rule out the possibility of conviction of the Applicant. In any case, the evidence will be appreciated by the Trial Court during the trial. The Trial Court, in Paragraphs 8 and 9 of its order dated 1st October 2024, rejecting bail to the Applicant, observed that despite the prosecution having already commenced the trial, the *roznama* reveals that the matter was adjourned from time to time, after recording evidence of PW-1 for securing appointment of an Advocate for the Applicant. The order further observes that the prosecution has taken steps to examine material witnesses. However, the cross-examination of PW-2 was also pending for want of appointment of an Advocate for the Applicant. The Trial Court has further

observed that the delay in the trial is not caused by the prosecution, but by the Applicant himself.

11. In view of the aforesaid discussion and more particularly, the fact that the trial is likely to conclude in the near future, since 6 out of 10 witnesses are already examined, I am not inclined to grant bail to the Applicant at this stage.

12. The present application is rejected.

(Dr. Neela Gokhale, J)