

Ajit Pathrikar

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO. 4331 OF 2025

Vijay Dange ...Applicant

Versus

The State Of Maharashtra ...Respondent

Mr. Abdul R. Bukhari, *for the Applicant.*

Ms. Anamika Malhotra, *APP for the State-Respondent.*

CORAM Dr. Neela Gokhale, J.

DATED: 24th November 2025

PC:-

1. The Applicant seeks his release on bail in connection with FIR No. 1148 of 2024 dated 29th October 2024 registered with the Mahatma Phule Chowk, Kalyan, Thane for the offences punishable under Sections 103(1) and 3(5) of the Bharatiya Nyaya Sanhita, 2023 (for short, “BNS”).

2. The facts of the case, in brief, are that the Applicant is one of the three security guards, manning a construction site near a medical shop at Kalyan (West). On 29th October 2024 at around 1:00 p.m., the three security guards including the present Applicant were seen arguing with the deceased. After some time, all three security guards started beating up the

deceased. The deceased was pushed during scuffle; he fell down and died. The injuries were such that he died of a neuro hemorrhagic shock. The FIR was registered, and the Accused were arrested on 29th October 2024.

3. The Applicant made an application before the Additional Sessions Judge, Kalyan. However, by order dated 23rd September 2025, his bail application was rejected.

4. Mr. Abdul Bukhari, learned Counsel for the Applicant, has taken me through the statements of the eyewitnesses. He submitted that the FIR does not give an accurate account of the incident, and the Complainant, according to Mr. Bukhari, was the only witness to the incident. Secondly, he argued that in fact, the eyewitness' statement exonerates the Applicant. He also submitted that the CCTV footage panchanama records that a fatal blow was given by the co-accused and not by the present Applicant. He also submitted that the legal and medical interpretation shows that it was a sudden fight between the deceased and the Accused and not a murder.

There was no intention as required under Section 3(5) of the BNS. He further submitted that the Applicant's role is limited to his presence as a security guard. The investigation is complete. Hence, further custody is not necessary. Mr. Bukhari thus submitted that the Applicant be enlarged on bail.

5. Ms. Anamika Malhotra, learned APP, on the other hand, pointed to the CCTV footage and the statements of several eyewitnesses. She countered arguments of Mr. Bukhari and stated that by no stretch of imagination can this altercation be described as having committed the offence on the spur of the moment. The CCTV footage also demonstrates that there was no provocation on the part of the deceased. She thus submitted that the bail application be rejected.

6. I have heard learned Counsel appearing for the respective parties and perused the record with their assistance.

7. I have perused the statement of the Complainant, who is an eyewitness, and several other eyewitnesses carefully. All

the statements are consistent with each other. Initially, there was an argument between the deceased and three security guards, as the security guards had asked the deceased not to use the stretch of the road leading to a construction site, which they were allegedly manning. It appears that, there was some argument between the parties, leading to a scuffle and physical altercation. The CCTV footage also demonstrates that all three security guards were beating the deceased and during the course of the beating, on a push given by one of the security guards, the deceased fell and thereafter he died on the spot. *Prima facie*, it appears from the CCTV footage and several statements of the eyewitnesses, that all three security guards collectively beat up the deceased, causing his death. At this stage, it is difficult to ascertain as to, which one of the three security guards gave the fatal blow to the Applicant. The offence invoked against the present Applicant invites life imprisonment and the Applicant is in custody since 29th October 2025, in my view, it does not qualify as long incarceration. Admittedly, the charges are not framed as yet.

However, since the chargesheet was filed in January 2025, the Trial Court is likely to frame charges on the next date.

8. The offence is serious. Nothing from the CCTV footage panchnama demonstrates the offence to have been committed on the spur of the moment. The argument of the Applicant that the security guards were only doing their job does not impress. Even believing the Applicant's story regarding the deceased insisting on using the restricted road does not give a right to the security guards to use disproportionate force to restrain him. The three is to one thrashing appears to be so serious that the man died. In this view of the matter, I am not inclined to enlarge the Applicant on bail at this stage.

9. Liberty to reapply for bail is reserved in case there is no substantial progress in the trial within a period of one year from the date of this order.

10. The Bail Application is rejected.

(Dr. Neela Gokhale, J)