

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO. 4621 OF 2025**

Shahbaz Ayub Shaikh

...Applicant

Versus

State of Maharashtra

...Respondent

Mr. Amod Ekhaspur, i/b Kaushik Mhatre, for the Applicant.

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

**Mr. Prafull R. Wagh, PI attached to Achole Police Station,
M.B.V.V., present.**

CORAM DR. NEELA GOKHALE, J.

DATED: 11TH DECEMBER 2025

PC:-

1. By way of the present Bail Application, the Applicant seeks his release on bail in connection with the FIR No.775 of 2021 dated 6th September 2021 registered with the Virar Police Station, Palghar for the offences punishable under Sections 302, 120-B and 34 of the Indian Penal Code, 1860 ('IPC').

2. The facts of the case, as discerned from the FIR, are that the First Informant is the brother of the deceased. The deceased was engaged in the business of developers and builders. On 6th September 2021 at around 2.30 am, the Applicant returned home to freshen up and was to go to the Shankar Temple to offer *Abhishek* to the deity. At 3.10 am, he left his house on his motor-cycle. At that time, the deceased was beaten up by unknown persons and was thereafter taken to the hospital, where he was declared as dead. It was revealed that it was the Applicant and others, who had assaulted the deceased on the road with iron rod and stabbed him with a knife. Accordingly, FIR was registered and the Applicant was arrested on 10th September 2021.

3. The Applicant moved an application seeking bail before this Court being Criminal Bail Application No.1866 of 2024. By order dated 27th September 2024, when this Court was not inclined to grant relief to the Applicant, counsel for the Applicant sought permission to withdraw the said Bail

Application. Permission to withdraw was granted with liberty to move a fresh bail application before the Trial Court after a period of one year if there was no progress in the trial. Admittedly, the Applicant has not approached the Trial Court as per the liberty granted by this Court by order dated 27th September 2024, instead, he has filed the present Bail Application before this Court.

4. Mr. Amod Ekhaspur, learned counsel appearing for the Applicant, submits that the Applicant has suffered incarceration for almost 4 years, however, the trial has not yet concluded. He has placed reliance on two decisions of this Court wherein on the ground of long incarceration, bail has been granted to the accused in similar circumstances. He thus, prays that the Applicant be enlarged on bail.

5. Ms. Anamika Malhotra, learned APP representing the State in the matter, has drawn my attention to the statement of an eye witness recorded by the Police. She submits that the eye witness has clearly stated that he saw the Applicant

hitting the deceased on his head with an iron rod. She has brought to my notice, the post-mortem report at page 180, more particularly, the aspect regarding the injury on the scalp of the deceased. The P. M. Report notes that there was a skull vault fractured on the back of skull. She submits that the maximum punishment prescribed for this offence is life imprisonment or death and hence, this is not a case of releasing the Applicant on the ground of long incarceration. Ms. Malhotra further submits that the trial has progressed inasmuch as charges are framed and the prosecution intends to examine only 21 witnesses. She further submits, on instructions, that the said eye witness is not traceable and his family members have conveyed that he has been placed under the tremendous pressure from the relatives of the Applicant. In these circumstances, she prays that the Bail Application be rejected.

6. I have heard the parties and perused the record with their assistance.

7. Admittedly, the Applicant withdrew the previous Bail Application since the Co-ordinate Bench of this Court was not inclined to grant bail to him, however, liberty was granted to the Applicant to approach the Trial Court, seeking bail, if there was no progress in the trial for a period of one year from the date of that order. Admittedly, the Applicant has not attempted to make any application for bail before the Trial Court and has made the Bail Application directly before this Court.

8. Secondly, I have perused the statement of the eye witness. The said eye witness has clearly stated that he saw the Applicant hitting the deceased on his head with an iron rod. The observation in the P. M. Report is consistent with the statement of eye witness. Moreover, I am inclined to believe Ms. Malhotra, learned APP, as she has stated, on instructions, that the said eye witness is under tremendous pressure from family and friends of the Applicant and hence, he is not presently traceable. In any case, now the charges are framed

and the prosecution intends to examine only 21 witnesses. Considering the possibility that the Applicant is likely to tamper with the evidence and further intimidate the witnesses in the trial, I am not inclined to grant bail to the Applicant.

9. I have gone through the decisions of this Court as relied on by Mr. Ekhaspur, learned counsel for the Applicant. In both the orders, the Applicants therein had suffered incarceration for more than 7 years and therefore, were released on bail. In the present case, the Applicant is in jail for the past about 4 years; charges are framed and the trial is about to commence. The maximum sentence prescribed for the said offence is life or capital punishment and hence, the present case is not that of long incarceration.

10. Considering the aforesaid discussion, I am not inclined to grant bail to the Applicant. The Bail Application is accordingly, rejected.

(DR. NEELA GOKHALE, J)