



IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO. 1047 OF 2025

Laxman Alias Lucky Balaji More

....Applicant

VERSUS

The State of Maharashtra

.....Respondent

Mr. S. C. Bhosle, Advocate for Applicant.

Mr. C. V. Bhadane, APP for the State.

CORAM : SACHIN S. DESHMUKH, J.

DATE : 13th JANUARY, 2026.

PER COURT :

1. Applicant has preferred this Application seeking regular bail in connection with Crime No. 54/2021 registered with Barad Police Station, Dist. Nanded, for the offences punishable under Sections 302, 120(B), 34, 364 of Indian Penal Code and Sections 3, 4, 25, 7/27 of Arms Act.

2. Case of the prosecution is that complainant and his brother Devidas are residents of Niwagha Tq. Mukhed, Dist. Nanded. The complainant had acquaintance with the present Applicant, who is engaged in a money lending business. The brother of the complainant namely Devidas borrowed money from the Applicant and on that count there was dispute between Devidas and the Applicant.

On 17.05.2021 at about 11.00 am, when Devidas was sitting in front of a closed shop near Shivaji statue in the village, three persons allegedly reached out there on motorcycle and attempted to take away Devidas forcefully. When Devidas resisted for the same, present Applicant took out a pistol and fired towards private part of Devidas and took away Devidas on motorcycle towards Mudkhed. Upon search, the dead body of Devidas was found in the agricultural land. On such allegations, First Information Report came to be registered.

3. Learned counsel for the Applicant submits that after investigation into the crime, offence under Maharashtra Control of Organized Crimes Act came to be registered against the Applicant. Investigation in the crime is complete and as such incarceration of the Applicant is not warranted. Hence, prayed for release of the Applicant on regular bail.

4. Per contra, learned APP vehemently opposed the Application submitting that the Applicant is a history sheeter. He is involved in a serious offence wherein the brother of the informant has lost his life. Material on the record is sufficient to indicate the complicity of the

Applicant wherein has used a weapon like revolver. The act of the Applicant is pre-meditated. By drawing attention of the Court to the serious nature of the offence, it is apprehended that the Applicant's release on bail would create a significant risk of tampering with prosecution evidence. As such, Application deserves no consideration.

5. Upon considering submission of both sides and perusing the material on record including charge-sheet, Applicant's involvement in the crime is prima facie apparent with weapon like pistol. Apart from that, as much as seven offences are registered against the Applicant. Even the provisions of Maharashtra Control of Organized Crimes Act are also invoked against him. In any case, complicity of the Applicant is, prima facie, apparent.

6. The Hon'ble Apex Court in case of Kalyan Chandra Sarkar and Ors. Vs. Rajesh Ranjan and Ors. [(2004)7 SCC 528], while laying down the guidelines for grant or refusal of bail in serious offences like murder, has observed as under :

“11. The law in regard to grant or refusal of bail is very well settled. The court granting bail should exercise its discretion in a judicious manner and not as a matter of

course. Though at the stage of granting bail a detailed examination of evidence and elaborate documentation of the merit of the case need not be undertaken, there is a need to indicate in such orders reasons for prima facie concluding why bail was being granted particularly where the accused is charged of having committed a serious offence. Any order devoid of such reasons would suffer from non-application of mind. It is also necessary for the court granting bail to consider among other circumstances, the following factors also before granting bail; they are:

(a) The nature of accusation and the severity of punishment in case of conviction and the nature of supporting evidence.

(b) Reasonable apprehension of tampering with the witness or apprehension of threat to the complainant.

(c) Prima facie satisfaction of the court in support of the charge. (See *Ram Govind Upadhyay v. Sudarshan Singh* and *Puran v. Rambilas*.)

7. Similarly, the Hon'ble Apex Court in case of Pralhad Singh Bhati Vs. NCT, Delhi [(2001)4 SCC 280], held that on satisfaction of prima facie evidence establishing the guilt of the accused, the bail can be denied. The Hon'ble Apex Court in the case of Mahipal Vs. Rajesh Kumar and Ors. (AIR 2020 SC 670) has laid down the principle that bail can be refused when the material produced by prosecution establishes a clear prima facie case. The Court should not conduct a mini-trial; it should only examine whether the available evidence links the accused to the alleged offence.

8. The record prima facie indicates that the complicity of the applicant in the incident, coupled with the fact that, the applicant was armed with the revolver and its firing in groin of the victim. Post mortem report also prima facie indicates and establishes the cause of the death of the victim is due to the fire arm with the injuries to the chest and right thigh. Thus, prima facie there is overwhelming material on record to indicate complicity of the applicant.

9. So far as the ground of delay in trial, the same has to be essentially assessed in the context of totality of circumstances including the conduct of the accused, the nature of allegations and the diligence by the prosecution. The Hon'ble Apex Court in case of **Ash Mohammad Vs. Shiv Raj Singh @ Lalla Babu & anr. (2012) 9 SCC 446**, has held that, in cases of heinous crimes, the duration of custody and delay in trial must be assessed in the context of totality of circumstances such as the conduct of accused, nature of accusations and diligence by the prosecution. In the present case, there is no material to suggest that, the State has failed in its obligation to prosecute the accused persons or that the right of the

speedy trial has been obliterated in any manner. Thus, the plea of slow progress in the trial must be weighed against the seriousness of the charges. The Hon'ble Apex Court, in case of **State of Bihar Vs. Amit Kumar @ Bachcha Rai (2017) 13 SCC 751**, has held that in heinous offences, the mere fact of slow progress may not override the public interest or the interest of justice.

10. To secure bail, the applicant must establish that the evidence collected and intended to be presented by the prosecution fails to establish a prima facie case of the applicant's involvement in or commission of the alleged offence. Since this necessary aspect has not been satisfied by the applicant, the applicant is presently disentitled to claim the bail. In that view of the matter, Bail Application stands rejected.

(SACHIN S. DESHMUKH, J.)

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