



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

BAIL APPLICATION NO. 1766 OF 2025

ADITYA SUDHAKAR CHOLKE
VERSUS
THE STATE OF MAHARASHTRA

...
Advocate for Applicant : Ms. Sunita G. Sonawane
APP for Respondent : Mr. C. V. Badhane
...

CORAM : SACHIN S. DESHMUKH, J.

DATE : 17-01-2026

PER COURT:-

1. The applicant seeks regular bail in connection with Crime No.0478 of 2020, dated 01.12.2020, registered with Supa Police Station, District Ahilyanagar, for the offences punishable under Sections 109, 189(2), 191(2), 191(3), 190, 118(1), 115(2), 352 of the *Bharatiya Nyaya Sanhita, 2023* and Sections 37(1) and 37(3) of the Maharashtra Police Act.

2. The prosecution case is that on 30.11.2020, the informant, the deceased, and their family traveled to Pune for medical treatment of the informant. Around 7.45 p.m. that evening at Jategaon Ghat, two motorcyclists approached the informant's car, leading to a scuffle during which one accused fatally struck the deceased with a deadly weapon. The mother of the deceased lodged a complaint against two unknown persons, but later it was

revealed that one of the accused, Balasaheb Bothe, was having an affair with the deceased, Rekha Jare. Driven by a dispute that arose between them and a desire to protect his reputation, Bothe allegedly conspired with co-accused to commit her murder at Jategaon Ghat Shivar between 7.45 p.m. and 8.00 p.m. on the day of the incident. Hence, the report.

3. Learned counsel for the applicant submits that the applicant is false implicated in the alleged crime, pointing the initial First Information Report was lodged against unknown persons. Further submits that there is no incriminating evidence against the applicant and stated that the trial has not been concluded within reasonable time, despite the completion of evidence from 27 witnesses. The applicant has been incarcerated for over 4 years and 8 months, amounting to indefinite incarceration. Since the investigation is complete, the chargesheet filed, and nothing remaining to be recovered.

4. The learned counsel for the applicant has placed reliance on the order passed by the Honourable Apex Court, in the case of co-accused Bal @ Balasaheb Jagannath Bothe vs. The State of Maharashtra, Criminal Appeal No.4549-4550 of 2025 (@ Special (Criminal) No. 11308-11309 of 2025, dated 15.10.2025), wherein the co-accused has been granted bail. Hence, prayed to release the applicant on bail.

5. The learned A.P.P. has opposed this third application for bail, submitting the serious and sensitive nature of the alleged offence. The chargesheet indicates mobile call details, proves the applicant served as the main point of contact between co-accused Nos. 1 and 3. Furthermore, a recovery of Rs.1,20,000/- and a knife has been effected at the instance of the applicant. Considering the gravity of the case and the evidence on record, the prosecution submitted that the application does not warrant consideration, hence, may deserve rejection of the application.

6. Pertinently, this Court, by order dated 22.12.2025, called a status report for the Sessions case from the Additional Sessions Judge, Ahmednagar. The report confirms that the trial of the present matter is ongoing. Till date, 32 witnesses have been examined, and the case is scheduled for the presentation of further evidence.

7. Upon hearing the learned counsel for the applicants and the learned A.P.P. for the State and perusal of the material on record including the chargesheet, *prima facie* there appears to be a prelude on account of affair between the deceased and one of the accused. The role of the applicant is indicated by the independent witnesses. Thus, the prosecution has *prima facie* collected the overwhelming material on record. The applicant is involved in the grievous nature of the offence punishable upto death sentence or life imprisonment.

8. The law is no longer *res integra* that the gravity and seriousness of the offence is relevant consideration for grant or refusal of bail. In the case in hand, the prosecution has collected *prima facie* overwhelming evidence at the instance of the witnesses those are rather eyewitness to the incident including the independent witnesses.

9. The Honourable Apex Court, in the case of ***Kalyan Chandra Sarkar and Ors. vs Rajesh Ranjan and others, (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 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.)”

12. In regard to cases where earlier bail applications have been rejected there is a further onus on the court to consider the subsequent application for grant of bail by noticing the grounds on which earlier bail

applications have been rejected and after such consideration if the court is of the opinion that bail has to be granted then said court will have to give specific reasons why in spite of such earlier rejection the subsequent application for bail should be granted."

10. Thus, the Hon'ble Apex Court has underscored the obligation of the Court when an earlier bail application has been rejected. A significant onus is placed on the Court while deciding a successive bail application/s to justify the grant of bail. The Court must specifically consider the grounds on which the previous application was rejected. If, after this consideration, the Court forms an opinion that bail should be granted, it must record explicit, specific reasons for doing so.

11. The Honourable Apex Court, in the case of ***Mahipal Vs. Rajesh Kumar and others, AIR 2020 SC 670***, has laid down the principle that bail can be refused when the material produced by the 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.

12. Equally, the Honourable Apex Court, in the case of ***State of UP through CBI Vs. Amaramani Tripathi, (2005) 8 SCC 21***, has held that the Court must evaluate the *prima facie* evidence showing the applicant's involvement. If such evidence is credible and supports the accusations, bail may be refused. As stated earlier, the prosecution has collected *prima facie* overwhelming evidence against the present applicant.

13. 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.

14. Similarly, the Honourable Apex Court in the case of ***Ram Govind Upadhyay vs Sudarshan Singh, (2002) 3 SCC 598***, has held that a judicial discretion in granting bail must not be exercised whimsically, especially in heinous offences.

15. The Honourable Apex Court, in the case of ***Prasanta Kumar Sarkar vs Ashis Chatterjee, (2010) 14 SCC 496***, has held that the mechanical grant of bail reflects non-application of mind, and outlined eight crucial factors to be considered, including reasonable ground for belief in guilt, nature of evidence and possibility of justice being thwarted.

16. In ***Neeru Yadav Vs. State of UP [(2016) 15 SCC 422]***, the Honourable Apex Court has held that the Courts must not casually ignore the criminal antecedents of the accused and must remain vigilant in heinous offences. The same principles were again re-affirmed by the Honourable Apex Court in the case of ***Anil Kumar Yadav Vs. State (NCT of Delhi) [(2018) 12 SCC 129]***.

17. Upon careful perusal of the grounds raised in the present

application, this Court finds that the contentions herein raised are repetitive and those were already considered by this Court and eventually, rejected the same while passing previous orders on related bail applications. No fresh grounds have been brought to the notice of the Court justifying reconsideration of the matter to change the view previously taken by this Court. It is rather an established principle that a successive bail application must be founded on material with a change in circumstance.

18. Thus, the factual matrix of the matter *prima facie* indicates the complicity of the applicant in a serious offence. Moreover, the material on record indicates that the role of the present applicant is distinct from that of the co-accused. As such, the present applicant is not entitled for parity.

19. Nevertheless this is successive application. In absence of the change in circumstances, the application does not warrant consideration, when the trial is progressing. Accordingly, this application does not deserve any consideration.

20. Resultantly, the bail application stands rejected.

[SACHIN S. DESHMUKH]
JUDGE