



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

BAIL APPLICATION NO. 1842 OF 2025

AKSHAY ALIAS MUSA LAXMAN MURKUTE  
VERSUS  
THE STATE OF MAHARASHTRA AND ANOTHER

...  
Advocate for Applicant : Ms. Ashwini S. Lomte h/f.  
Mr. Sudarshan J. Salunke  
APP for Respondent : Mr. A. R. Kale  
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**CORAM : SACHIN S. DESHMUKH, J.**

**DATE : 27-01-2026**

**PER COURT:-**

1. The applicant seeks regular bail in connection with Crime No.9 of 2023 dated 08.01.2023 registered with Ashti Police Station, Beed, for the offences punishable under Sections 302, 307, 326, 324, 323, 504, 506, 143, 147, 148, 149 of the Indian Penal Code and Sections 37(1) and 37(3) of the Maharashtra Police Act.

2. The prosecution case is that on 06.01.2023 at about 7.30 p.m., the informant, Nana returned home. His brother, Tatya, informed that Santosh Jadhav's son, Saurabh, had assaulted Amol, and Tatya was on his way to the police station to file first information report. At that moment, Santosh Survase arrived and requested that they settle the matter amicably, asking them to come to his house to talk.

Accordingly, at 8.15 p.m., Nana Survase, along with Ganesh Survase, Sunita Murkute, Savita Survase, Amol Murkute, Rahul

Murkute, and Tatya, went to Santosh Survase's home. Upon their arrival, all the accused and seven to eight other persons were present. As the informant's group entered the house, Akshay Murkute closed the door. The accused armed with iron rods, sword, and sticks. Santosh Survase confronted the informant, accusing him of working against them in the election and attempting to lodge an FIR. The accused abused and assaulted the informant and his companions with the aforementioned weapons, intending to kill them.

The informant and his brother Tatya sustained serious injuries and collapsed to the ground. Believing their, victims were dead, the accused fled the scene. Other individuals then transported the injured to the hospital. During medical treatment, the informant's brother, Tatya Survase, died. Consequently, the offense punishable under section 302 of the Indian Penal Code (IPC) was added to the registered crime, leading to this FIR.

3. Learned counsel for the applicant submits that the applicant has no nexus with the alleged crime and points out that he has been incarcerated for long, and the injuries described in the case are simple in nature. Furthermore, co-accused No. 6 and 7 have already been granted bail.

It is submitted that in view of the prosecution case, the applicant is not responsible for causing the fatal injury to the deceased, Tatya. While it is alleged he caused an injury to the

informant's ear with a sword, the Medico-Legal Certificate contradicts this, indicating the injury was simple and caused by a hard and blunt object, making the allegation regarding the use of a sword doubtful. The available CCTV footage does not indicate the alleged incident and suggest that the informant and purported eyewitnesses were not even present at the scene. The statements of the witnesses are uniform. The investigation is completed and the chargesheet is filed. Hence, prayed to release the applicant on bail.

4. The learned A.P.P. vehemently opposed the bail application, submitting there is a strong prima facie case against the accused, who actively participated in a preplanned attack. The prosecution contends the accused were well-prepared and armed, luring the deceased and witnesses under the guise of a settlement before assaulting them. Considering the gravity and seriousness of the offence, the A.P.P. submits that releasing the applicant on bail is likely to result in witness tampering and pressure. Furthermore, he submitted that there has been no substantive change in circumstances to justify entertaining a subsequent application, contending that any delay in the trial's conclusion is due to the numerous applications filed by the applicant themselves.

6. Having heard the learned counsel for applicant and learned APP for State, the applicant is facing a serious charge of attempt to

murder which is punishable with sentence of 10 years imprisonment and shall also be liable to fine, or life imprisonment if hurt is caused to the victim. The Honourable 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 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.)*

9. 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 face. The Court should not conduct a mini-trial; it should only examine whether the available evidence links the accused to the alleged offense.

10. 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 overwhelming evidence against the present applicant.

11. Similarly, the Honourable Apex Court in the 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.

12. Similarly, the Honourable Apex Court in 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.

13. The Honourable Apex Court in 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.

17. In the case of ***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 case of **Anil Kumar Yadav Vs. State (NCT of Delhi) [(2018)12 SCC 129]**.

18. The Hon'ble Apex Court in case of State of **Bihar Vs. Amit Kumar [(2017)13 SCC 751]**, has held that delay especially in cases involving serious offences, cannot by itself be a ground for bail. In the present case, the trial is progressing and further the prosecution has demonstrated the efforts to conclude the trial. Considering the seriousness of the offences involved, the overwhelming material weighs against the applicant.

19. Recently, in the case of **Gulfisha Fatima v. State (Govt. of NCT of Delhi), 2026 SCC OnLine SC 10**, the Supreme Court held that personal liberty under Article 21 is foundational but must be balanced against community security, trial integrity, and public order concerns.

20. The Courts must apply disciplined scrutiny if the prosecution material, taken at face value, shows reasonable grounds that the accusations are *prima facie* true, the statutory restraint ordinarily operates. Article 21 guides the statute's application but does not negate the statutory condition, meaning liberty must yield when overwhelming *prima facie* material exists.

21. Considering the material available, a clear *prima facie* case is made out indicating the involvement of the accused. Equally, the Honourable Apex Court has consistently reiterated that when considering bail application/s in serious offenses, such as, pre-meditated murder, the Court must treat vital considerations like the nature of the charge and the nature of the evidence as paramount.

22. So far as the submission of the learned counsel for applicant in relation to delay in trial, the same cannot be considered in isolation. As has been held by Hon'ble Apex Court in case of **Amit Kumar** (supra), the delay especially in cases involving serious offences, cannot by itself be a ground for bail.

23. Upon careful perusal of the grounds raised in the present application, this Court finds that the contentions are repetitive of those raised in the applicant's earlier bail application, which was ultimately disposed of as withdrawn. While the previous application was not decided on its merits, it is a settled principle that a successive bail application should not be used to re-agitate the same contentions in the absence of a material change in circumstances.

24. The record indicates no significant development in the trial or the factual situation since the withdrawal of the earlier plea, the present application lacks the necessary foundation to

warrant a different view. Consequently, in the absence of any such change in circumstances, the application deserves to be rejected.

25. In view of the aforesaid observations and having regard to the gravity of the offence, I do not find merits in the present application and, accordingly, the bail application is rejected.

[SACHIN S. DESHMUKH]  
JUDGE

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