



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

BAIL APPLICATION NO. 1865 OF 2025

BABU HAKKANI SHAIKH
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

...
Advocate for Applicant : Mr. Sonalli Shrikant
(Appointed through Legal Aid)
APP for Respondent No.1 : Mr. A. R. Kale
...

CORAM : SACHIN S. DESHMUKH, J.

DATE : 06-02-2026

PER COURT:-

1. The applicant has approached this Court seeking regular bail in connection with Crime dated 02.07.2024 bearing Crime No.190 of 2024 registered with Kingaon Police Station, District Latur, for the offences punishable under Sections 103(1), 49 of the Bhartiya Nyaya Sanhita, 2023. In the said crime, the applicant was arrested on 02.07.2024. After completion of the investigation, the chargesheet is filed.

2. The prosecution case is that following the suspicious death of Arvind Telange in February 2024, his brother, co-accused Sainath Pandhari Telange, harboured a grudge against the complainant for allegedly concealing the killer's identity, leading him to issue a death threat against the complainant's mother, Taramati, vowing that "murder will be revenged with murder." On 01.07.2024, around 5.00 p.m., Taramati was found murdered in a

cotton field near the Manyad River, having sustained deep wounds to her ear and forehead and a fractured skull caused by a sharp weapon. The prosecution relies on direct evidence from field workers Rekha Telange and Pushpa Deokate, who identified the assailant as Babu Hakkani Shaikh/Applicant, a labourer who allegedly acted as the executioner under the specific instructions and conspiracy of Sainath Pandhari Telange to avenge his brother's death.

3. Learned advocate for the applicant submits that the applicant is falsely implicated in the crime. The allegations levelled against him are false and fabricated. There is no *prima facie* evidence to justify the continued detention. The investigation is completed and the chargesheet is filed. Therefore, further incarceration of the applicant is not required. There are no criminal antecedents against the applicant.

4. It is further submitted that witness Momdabai has not supported the prosecution, while witnesses, Kusumbai and Rekha failed to mention any weapon, rendering the alleged recovery baseless. The purported eyewitnesses are interested parties whose statements suffer from material contradictions and improvements that must be tested at trial, and as the applicant had no motive or involvement in the previous dispute between the Telange family and the complainant, *prima facie* reliance on such evidence is misplaced. Furthermore, the applicant is entitled to bail on the

ground of parity with the released co-accused by the trial court. The applicant is 50-year-old and has no criminal antecedents. Hence, prayed to allow the application.

5. Learned A.P.P. has strongly opposed the application submitting that the offence is of serious nature and that the role of the applicant is distinct than that of the co-accused. There are eye witnesses to the offence committed by the applicant. Hence, prayed to reject the application.

6. Having heard the respective counsel from both the sides and upon perusal of the material on record, including the charge sheet, *prima facie*, indicates that the prosecution has presented a compelling narrative of a cold-blooded, premeditated murder committed in broad daylight. The nature of the injuries, specifically the fractured skull and deep wounds inflicted by a sharp weapon, indicates a brutal intent to cause death. The said fact is substantiated by the postmortem report indicating the cause of death as “Intracranial Haemorrhage due to head injury”.

7. The Honourable Apex Court, in the 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.)

8. 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.

9. 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.

10. Equally, the Hon'ble 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.

11. 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.

12. In light of the aforesaid facts and precedents, it is evident from the statements of eyewitnesses specifically Kusumbai, who identified the applicant at the scene which establishes a strong prima facie against the applicant. Regarding the contradictions in witness statements, it is settled that this Court must exercise its discretion based on prima facie evidence, as such factual discrepancies can only be properly delved into during the trial.

13. The prosecution has placed heavy reliance on the direct testimonies of eyewitnesses, Kusumbai, Rekha Telange, and Pushpa Deokate, whose presence in the field was natural and probable; they reportedly witnessed the applicant strike Taramati with a stone and subsequently deliver a fatal blow with a Katti. This ocular evidence is corroborated by medical findings citing intracranial haemorrhage due to head injury as the cause of death.

14. Furthermore, the plea of parity with the co-accused is not maintainable in the present facts. The applicant is alleged to be the physical perpetrator, the "executioner", who dealt the fatal blows, whereas the co-accused is charged with the conspiracy and

had only circumstantial evidence against him. The role of an assailant who physically commits a heinous act is distinct and more severe than that of a conspirator. Therefore, the applicant cannot claim the benefit of parity as the roles are not identical.

15. Considering the severity of the punishment for murder, there is a reasonable apprehension that the applicant, if released, may attempt to influence or intimidate prosecution witnesses, many of whom are local labourers or relatives of the deceased. Regarding the applicant's age of 50 years and alleged health issues, there is no medical record suggesting a condition so critical that it cannot be managed within jail hospital facilities. Since there is substantial *prima facie* evidence connecting the applicant to the crime, his release is not warranted at this stage.

16. Accordingly, the bail application is rejected.

17. The High Court Legal Services Sub-Committee, Aurangabad, to pay the fees to the learned counsel appointed for the applicant, as per rules.

18. Needless to state that the observations rendered herein are to the extent of this application and the trial Court shall not be influenced by the same.

[SACHIN S. DESHMUKH, J.]