



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO. 2015 OF 2025

SUNIL KISHORLAL SHARMA
VERSUS
THE STATE OF MAHARASHTRA

Advocate for Applicant : Mr. Joydeep Chaterjee h/f Mr. Abhaysinh
K. Bhosle

APP for Respondents-State : Ms. R. R. Tandale

CORAM : SACHIN S. DESHMUKH, J.

Date : 29th January, 2026

ORDER :-

1. The applicant has approached this Court seeking regular bail in connection with FIR dated 25.06.2023 bearing Crime No. 237 of 2023 registered with Wajirabad Police Station, Dist. Nanded for the offences punishable under Sections 143, 147, 148, 307, 302, 324, 326, 324, 504 and 506 read with 34 of the Indian Penal Code.

2. The case of the prosecution is that the Informant, who is the wife of the deceased, lodged a First Information Report (FIR) on 25.06.2023 regarding a violent incident rooted in a digital dispute. According to the prosecution, the conflict originated on 23.06.2023 within a WhatsApp group, where the

deceased and the present applicant engaged in a heated argument over the installation of a banner. During this exchange, the applicant allegedly issued threats via WhatsApp chats and challenged the deceased to confront him outside his residence.

3. It is further alleged that following the provocation, the applicant, accompanied by co-accused Shaikh Rahman, arrived at the deceased's house and called him out. A physical altercation ensued upon the deceased's arrival outside. During this struggle, the applicant and Shaikh Rahman reportedly assaulted the deceased with a weapon. It is further alleged in the FIR that the applicant also sustained injuries during the course of this initial confrontation.

4. It is further alleged that the violence escalated when Shaikh Rahman placed a phone call, resulting in 4 to 5 additional accused arriving at the scene within five minutes. This group utilized makeshift weapons, including bricks found on the road and a fiber rod, to beat the deceased. The assault was particularly brutal, involving the deceased's head being repeatedly banged against an iron gate and concrete stairs, causing severe hemorrhaging. The assailants fled the spot only after the

informant and bystanders raised an alarm. The deceased was immediately shifted to a medical facility for treatment. Despite emergency medical intervention, deceased succumbed to injuries on 30.06.2023. Accordingly, the FIR came to be registered on 10.07.2023.

5. The previous application presented by the applicant bearing Bail Application No. 1336 of 2024 was dismissed by an order of this Court dated 09.08.2024 of this Court.

6. In the aforesaid backdrop, the learned counsel for applicant submits that the incident in question was not a pre-planned conspiracy but a sudden quarrel arising from a trivial dispute over a banner on a WhatsApp group on 23.06.2023. There was no mens rea or intention to cause death, and the altercation occurred in the spur of the moment.

7. The learned counsel for applicant further submits that there is significant delay in lodging the FIR. While the alleged incident took place on 23.06.2023, the FIR was registered on 25.06.2023. This 48-hour delay provides room for embellishment and the false implication of the applicant, especially given the

ongoing rivalry regarding the banner. The investigation is completed and the charge-sheet is filed. Nothign remains to be recovered at the instance of applicant. The arrest of the application is effected on 27.06.2023 and since then, he is in jail. As such, further incarceration of the applicant is not warranted. As such, prayed to allow the application.

8. The learned APP has submitted that the prosecution has cited in all 34 material witnesses. It is further submitted that there is overwhelming prima facie evidence of a premeditated assault. The applicant did not merely engage in a digital spat; following the WhatsApp dispute on 23.06.2023, he actively challenged the deceased and traveled to the deceased's residence armed with a weapon.

9. It is further submitted that the nature of the assault was exceptionally brutal and barbaric. The deceased was subjected to a coordinated attack where his head was repeatedly banged against an iron gate and concrete stairs. These injuries were so severe that the victim eventually succumbed on 30.06.2023. The gravity of the offence is a paramount consideration that outweighs the plea for personal liberty in such heinous circumstances.

10. In any case, this is a successive bail application and there is no change in the circumstances. Initially, the bail application of the applicant was dismissed by this Court. This Court must give serious consideration while dealing with maintainability of successive bail application at a subsequent stage when the earlier bail application had been rejected.

11. It is further submitted that this Court must give weight to changes in fact, situation, or law, or where earlier findings have become obsolete, as legitimate grounds for maintaining a successive bail application/s. The grounds canvassed in the earlier order are not permitted to be re-agitated on the same basis, as doing so would lead to uncertainty or inequality in the administration of justice.

12. Having heard the learned counsel for applicant and learned APP for State, the applicant is facing the charge of murder which is punishable with death sentence or imprisonment for life. 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.)

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."

13. 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.

14. 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.

15. Similarly, the Hon'ble 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.

16. Equally, the Hon'ble Apex Court in 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.

17. The Hon'ble 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.

18. 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 offense.

19. In the present case, prima facie, the incident was not a spontaneous reaction but a premeditated act. After the WhatsApp dispute on 23.06.2023, accused Sunil issued specific threats and challenged the deceased and subsequently travelling to the victim's

residence to execute the assault. Prima facie, the assault involved exceptional cruelty, where the deceased's head was repeatedly banged against an iron gate and concrete stairs.

20. Moreover, there is strong prima facie evidence linking accused Sunil to the crime, including the WhatsApp logs indicating the initial challenge and the eyewitness accounts from the informant who witnessed the assault. The medical evidence also corroborates that the assault was directed specifically at the head I.e. a vital organ. The act of repeatedly banging the deceased's head against an iron gate and concrete stairs prima facie indicates an intention to cause death.

21. 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.

22. Considering the material available, a clear prima facie

case is made out showing the involvement of the accused. Equally, the Hon'ble Apex Court has consistently reiterated that while 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.

23. 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.

24. Upon careful perusal of the grounds raised in the present application, this Court finds that the contentions raised are repetitive and those were already considered by this Court and eventually, rejected the same while passing the order in Bail Application No. 1336 of 2024. 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 established principle that the successive bail application must be founded on material with change in circumstance.

25. When confronted with the change in circumstances, the learned counsel for the applicant failed to demonstrate the same. Furthermore, given that the applicant and the victim's family reside in the same locality, there exists a palpable risk of witness tampering and intimidation in the event the applicant is enlarged on bail.

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

27. Needless to states 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.)

Omkar Joshi