



IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

922 BAIL APPLICATION NO. 2057 OF 2025

Kailash Jagdish Bighania

....Applicant

VERSUS

The State of Maharashtra

.....Respondent

Mr. A. K. Bhosle, Advocate for Applicant.

Mr. B. B. Bhise, APP for the State.

CORAM : SACHIN S. DESHMUKH, J.

DATE : 16th JANUARY, 2026.

PER COURT :

1. Applicant seeks regular bail in connection with Crime No. 252/2020 registered with Vimantal Police Station, Dist.Nanded, for the offences punishable under Sections 302, 201, 147, 148, 149, 129, 120-B, 34 of Indian Penal Code and Sections 3, 4, 25, 3/25, 4/25 of Arms Act.

2. The genesis of the offence is related to the death of the complainant's brother on 02.08.2020. Consequently, First Information Report (FIR) bearing Crime No. 252/2020 was registered under Sections 302, 201, 147, 148, 149, 129, 120-B, 34 of Indian Penal Code and Sections 3, 4, 25, 3/25, 4/25 of Arms Act. The

ensuing investigation led to the applicant being named as one of the accused.

3. The previous application presented by the applicant bearing Bail Application No. 93/2025 was dismissed as withdrawn by an order of this Court dated 03.04.2025 of this Court.

4. In the aforesaid backdrop, the learned counsel for applicant submits that since the other accused namely Pradeep @ Sohan s/o Lalchand Rotre and Mohammed Tausif s/o Mohammed Haroon have been enlarged on bail by this Court, present application deserves consideration on the ground of parity. As such, further incarceration of the applicant is not warranted. It is further submitted that the applicant is an innocent person and falsely implicated in the case.

5. The learned APP has submitted that this is a successive bail application. There is no change in the circumstances. Initial bail application of the present applicant was dismissed as withdrawn. Hence, prayed to reject the application.

6. Upon considering the submissions and perusal of record, it reveals that this is a successive bail application and there is no change in the circumstances. Earlier application of the applicant was

dismissed as withdrawn. This Court must give serious consideration while dealing with maintainability of successive bail application at a subsequent stage when the earlier bail application has suffered rejection.

7. 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.

8. 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.)

9. 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 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.

12. 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.

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 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.

15. 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.

16. In Neeru Yadav Vs. State of UP [(2016)15 SCC 422], the Hon'ble 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 Hon'ble Apex Court in case of Anil Kumar Yadav Vs. State (NCT of Delhi) [(2018)12 SCC 129].

17. Considering the material currently available on record, a clear prima facie case is made out indicating 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.

18. Upon careful perusal of the grounds raised in the present application, this Court finds that the contentions raised are repetitive and those were already raised and considered by this Court and eventually, rejected the same while passing the order in Bail Application No. 93/2025. No fresh circumstances 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. In absence of such change, the application deserves to be rejected.

19. 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.

20. 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.

(SACHIN S. DESHMUKH, J.)

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