



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

BAIL APPLICATION NO. 1773 OF 2025

Prathmesh s/o Prabhakar Pampatwar,
Age : 23 Years, Occu. : Student,
R/o At Post Barbada,
Tq. Naygaon, Dist. Nanded. .. Applicant

Versus

The State of Maharashtra .. Respondent

Shri Abhaysinh K. Bhosle, Advocate for the Applicant.
Shri A. R. Kale, Addl.P.P. for the Respondent.
Shri Upendra B. Bilolikar, Advocate for the Intervenor –
Informant.

**WITH
BAIL APPLICATION NO. 2066 OF 2025**

Madhav S/o Parasram Rathod,
Age : 35 Years, Occu. : Business,
R/o Krushnoor, Tq. Naigaon (Kh),
Dist. Nanded. .. Applicant

Versus

The State of Maharashtra .. Respondent

Shri Anup R. Nikam, Advocate for the Applicant.
Shri A. R. Kale, Addl.P.P. for the Respondent.

**CORAM : SHAILESH P. BRAHME, J.
DATE : 24TH MARCH, 2026.**

FINAL ORDER :

. Heard both sides. Applicants are seeking enlargement on

bail in respect of offence bearing Cr. No. 05/2024 registered with Kuntur Tq. Police Station, Dist. Nanded for the offences punishable U/Sec. 120-B, 143, 201 and 302 of the Indian Penal Code.

2. Both applications are strongly objected by the learned Additional Public Prosecutor Mr. Kale on the ground of maintainability. He would submit that in one case earlier bail application was rejected and in another case it was withdrawn. There is no change in circumstances. Therefore, successive bail applications are not tenable. It is further submitted that the applicants are not cooperating with the Trial and no cross examination of the second witness of the prosecution has been conducted by their counsels.

3. To repel the submissions, learned advocate Mr. Abhaysinha Bhosle tenders on record judgment of the Supreme Court in the case of Shaikh Javed Iqbal @ Ashfaq Ansari @ Javed Ansari Vs. State of Uttar Pradesh reported in *2024 SCC Online SC 1755*. It would apposite to reproduce relevant extract.

“32. This Court has, time and again, emphasized that right to life and personal liberty enshrined under Article 21 of the Constitution of India is overarching and sacrosanct. A constitutional court cannot be restrained from granting bail to an accused on account of restrictive statutory provisions in a penal statute if it finds that the right of the accused-undertrial under Article 21 of the Constitution of India has been infringed. In that event, such statutory restrictions would not come in the way. Even in the case of interpretation of a penal statute, howsoever stringent it may be, a constitutional court has to lean in

favour of constitutionalism and the rule of law of which liberty is an intrinsic part. In the given facts of a particular case, a constitutional court may decline to grant bail. But it would be very wrong to say that under a particular statute, bail cannot be granted. It would run counter to the very grain of our constitutional jurisprudence. In any view of the matter, K.A. Najeeb (supra) being rendered by a three Judge Bench is binding on a Bench of two Judges like us.”

4. In the present case both the applicants were arrested on 12.01.2024. The charge sheet was filed on 01.04.2024. Thereafter present bail applications have been filed one on 09.09.2025 and another on 15.10.2025.

5. Learned Addl. P. P. is right in contending that successive bail application filed within close proximity from earlier rejection cannot be entertained, but that cannot be said to be rule of thumb. This Court cannot be oblivious of the personal liberty of the accused persons and the balance will have to be struck between liberty of the accused and the interest of the prosecution or the informant. If the investigation is over and no fruitful purpose is going to be served by keeping them behind bar, a pragmatic approach would be to enlarge them on bail by imposing certain conditions.

6. In the case at hand a specific query was made regarding antecedents against the applicants. No antecedents are quoted against the applicant – Madhav. In the case of applicant Prathamesh one antecedent of theft and petty offences is quoted. The panchanama dated 18.01.2024 based upon the narration given by the co-accused and first information report show some

financial dealings of the deceased with the co-accused – Govind Redewad and Chakradhar Shinde. The *mens rea* is also pitted against the co-accused on account of illicit relations of the deceased with wife of one of applicant – Madhav. There is no direct evidence against the applicants. *Prima facie* no incriminating material is surfacing against them. In the peculiar facts and circumstances, I am inclined to grant bail to the applicants.

7. It is vehemently contended by the Mr. Kale, learned Addl. P. P. that applicants are not cooperating with the Trial. The Trial is at the stage of cross examination of second witness. Learned counsels appearing for the applicants are ready to furnish undertaking before this Court as well as Trial Court to show that the counsels representing the applicants in the Trial Court as well as applicants would cooperate the Trial and promptly conduct the cross examination not only of present witness, but other witnesses also. Condition in this regard can be imposed in the order.

8. The C.D.R. report and the *mens rea* would be considered during the course of trial, which would not be the factor to deny the bail to them. For the reasons stated hereinabove, I am inclined to grant applications.

O R D E R

A. The bail applications are allowed.

B. Applicant – Prathmesh Prabhakar Pampatwar and applicant – Madhav Parasram Rathod shall be released on bail in respect of Cr. No. 05/2024 registered with Kuntur Tq. Police Station, Dist. Nanded for the offences punishable U/Sec. 120-B, 143, 201 and 302 of the Indian Penal Code on condition of furnishing P. R. bond of Rs. 50,000/- (Rs. Fifty Thousands only) each with one solve surety of like amount.

C. The applicants shall not tamper prosecution evidence or contact with the prosecution witnesses.

D. Both applicants shall not enter village Barbada, Tq. Naigaon as well as entire Naigaon taluka, Dist. Nanded till conclusion of the trial.

E. Applicants shall furnish their cell numbers and address to the Investigating Officer.

F. Both applicants shall furnish undertaking before the Trial Court within a period of two (02) weeks from today that they and their learned counsels shall cooperate with the trial and perform their role promptly.

G. Bail applications are disposed of.

[SHAILESH P. BRAHME J.]

bsb/March 26