



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO. 2103 OF 2025

RAHUL APPA KALE
VERSUS
THE STATE OF MAHARASHTRA

Advocate for Applicant : Mr. Sujit Patil
APP for Respondents-State : Mr. S. D. Ghayal

CORAM : SACHIN S. DESHMUKH, J.

Date : 17th January, 2026

ORDER :-

1. The applicant has approached this Court seeking regular bail in connection with FIR dated 06.01.2025 bearing Crime No. 5 of 2025 registered with Yermala Police Station, Dist. Dharashiv for the offences punishable under Sections 189(2), 191(2), 191(3), 190, 103(1), 115(2), 118(1), 352, 109 and 190 of the Bhartiya Nyaya Sanhita, 2023 (hereinafter "BNS" for short).

2. The case of the prosecution is that on 05.01.2025, at approximately 5:30 p.m., the informant, Vandana Bhagyawant Kale, was present at her residence with other family members. At that time, her sister-in-law Rekha, telephoned the informant's nephew Sunil, informing him that co-accused Appa Kale switched

off the motor installed on the common well. Appa Kale allegedly stated that he would no longer permit them to fetch water from the well and ensure Rekha to make alternative water arrangements. During the phone call, Rekha further reported to Sunil that she had been assaulted by co-accused Appa Kale, Parmeshwar Kale, the present applicant Rahul Kale, and co-accused Rukshalabai Kale and Vijayantabai Kale.

3. It is further case of the prosecution is that immediately following the phone call, the informant accompanied by Sunil Kale and Nagesh Kale, departed for the scene of the incident on a motorcycle. Thereafter, the informant telephoned her sister-in-law Balubai to brief her on the situation and requested her presence at the agricultural field. At approximately 19:00 hours on 05.01.2025, the informant Nagesh and Sunil reached the field. Simultaneously, the informant's husband Bhagyawant along with Uttreshwar, Balubai and the Sarpanch of the village Bavi also arrived at the location.

4. It is further alleged that upon the arrival of the family, Kalawati (the informant's mother-in-law), Rekha, and Vishal also gathered at the agricultural field. Sunil Kale questioned co-accused

Appa Kale and the present applicant Rahul Kale, regarding the assault on his mother. In response, Appa Kale, Rahul Kale, Parmeshwar Kale and Rukshalabai reiterated that they would not allow to fetch water from the well and ordered them to find an alternative source.

5. It is further alleged that a physical confrontation subsequently ensued between both parties. The present applicant was armed with a sickle, Parmeshwar Kale held a small knife, Vijayantabai Kale carried a piece of wood and Rukshalabai was armed with a wooden log. These individuals launched a coordinated assault on the informant Sunil Kale, Balubai, Rajendra, Kalawati, Bhagyawant and Uttreshwar. Additionally, co-accused Appa Kale subjected them to physical battery using kicks and punches while hurling verbal abuses. During the assault, Sunil Parmeshwar Kale sustained grievous injuries.

6. It is further alleged that following the assault, the informant and her associates shifted the injured Sunil Kale to the Rural Hospital in Washi. Due to the severity of condition, was referred to Osmanabad, however, they ultimately admitted injured to Sahyadri Hospital, transporting him there in a Bolero jeep.

Despite receiving medical treatment, Sunil Kale succumbed to the injuries at approximately 21:47 hours on 05.01.2025. Based on this report, the FIR came to be registered.

7. The learned counsel for the applicant submits that the applicant is innocent and has been falsely implicated in the alleged crime. It is contended that the investigation is complete and the charge-sheet has been filed, yet there remains insufficient incriminating material to satisfy the penal provisions cited in the FIR. The counsel highlights that a cross-complaint, Crime No. 04/2025, was registered at the Yermala Police Station against the informant and her family members for the murder of the applicant's father, Appa Bhau Kale, and his brother, Parmeshwar Appa Kale.

8. It is further submitted by the learned counsel for applicant that some of the accused individuals in that counter-case have already been released on bail by the Sessions Court. The applicant has been in custody since 07.01.2025, and it is argued that his further detention is unjustified. The applicant expresses a willingness to abide by any terms and conditions imposed by the Court. Consequently, the counsel prays for the applicant to be

released on bail.

9. The learned APP has opposed the application and submitted that the offence is of a grave and serious nature. It is submitted that the applicant played an active role in the crime, acting in concert with the co-accused to launch a fatal assault on Sunil Kale. There is sufficient incriminating material to establish a prima facie case under the registered penal provisions. Furthermore, the learned APP expressed apprehension that, considering the gravity of the allegations, the applicant's release would lead to the likelihood intimidation of material witnesses or interference with the course of justice. As such, prayed for the rejection of the application.

10. 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.)

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 the present case, based on the FIR and the corroborating statements of witnesses, it is evident that the applicant was armed with a sickle at the time of the incident. Acting in concert with the co-accused, the applicant participated in a violent assault on the informant and several prosecution witnesses, including Sunil Kale, Balibai, Rajendra, Kalawati, Bhagyawant, and Uttreshwar. The gravity of the offence is underscored by the fact that Sunil Kale sustained grievous injuries during this coordinated attack, which directly resulted in death.

17. Moreover, the PM Report corroborates the violent nature of the assault, identifying the probable cause of death as shock and hemorrhage resulting from multiple stab wounds to vital organs.

18. The co-accused Rukshalabai and Vaijyantabai were granted regular bail by the Sessions Court. However, the principle of parity does not extend to the present applicant. The applicant's role is distinct and far more severe. The record indicates that the applicant was armed with a sickle and actively participated in a

coordinated assault on the deceased. Considering these specific and grave allegations, the applicant cannot claim parity with the co-accused.

19. 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.

20. Considering the material currently 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.

21. 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.)

Omkar Joshi