



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

BAIL APPLICATION NO. 2313 OF 2025

SHUBHAM DATTATRYA GONDKAR

VERSUS

THE STATE OF MAHARASHTRA

WITH

**CRIMINAL APPLICATION NO. 4815 OF 2025
IN BA/2313/2025**

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Advocate for Applicant : Senior Counsel Mr. V.D. Sapkal
i/by Mr. Yash Anil Jadhav

APP for Respondents/State : Mrs. P. J. Bharad

Advocate for the Applicant in Cri. Appln. : Mr. V.S. Kadam
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CORAM : MEHROZ K. PATHAN, J.

DATE : 2nd FEBRUARY 2026

PER COURT :

1. Heard the learned Senior Counsel for the Applicant, the learned Counsel for assisting the prosecution and the learned APP for the State.
2. The Applicant has approached this Court, seeking regular bail in connection with Crime No.256/2025 registered with Shirdi Police Station, Tq. Rahata, District Ahmednagar for the offences punishable under Section 103(1) of the Bhartiya Nyaya Sanhita, 2023.
3. The learned Senior Counsel for the Applicant submits that

initially, upon the death of the deceased father, Dattatrya, an accidental death was registered on 06.03.2025. The statements of the Applicant, as well as those of the mother and sister of the Applicant, were also recorded. The Applicant was called to the police station for interrogation, and the FIR came to be registered only on suspicion that the Applicant had committed the murder of the deceased. The learned Counsel for the Applicant further submits that a perusal of the statements of the mother and sister of the Applicant would show that the initial version recorded by the prosecution was that the deceased had inflicted injuries upon himself by banging his head against the wall of the room. It is further stated by the mother of the Applicant that she had called upon the neighbours to break open the door, as the door was latched from inside. The learned Senior Counsel further submits that the deceased was suffering from psychiatric disorder and had previously undergone treatment for de-addiction and psychiatric illness. It could be inferred that the deceased was also alcoholic. It is further submitted that the deceased had suffered an accident on 03.03.2025, as can be seen from the statement of one Mohan Sakhne, Manager of the Hotel, who stated that the deceased Dattatrya had met with an accident on 03.03.2025 and had suffered some abrasions, and therefore was required to be taken to a doctor who administered an injection and prescribed some tablets. The learned Senior Counsel submits that the injury sustained by the deceased, as reflected in the postmortem report, could be the result of such accident, as informed by the witness Mohan. It is further submitted that self-incriminating evidence is not an

admissible piece of evidence, and the statement of the Applicant recorded by the police while in custody is not admissible, being hit by Section 25 of the Evidence Act.

4. It is further submitted by the Senior Counsel that the Applicant has approached this Court earlier by filing ABA No.1208/2025. This Court vide its order dated 18.08.2025 has allowed the Applicant to again approach this Court after a period of three months without observing anything on merits. The Applicant thereafter approached the learned Sessions Court seeking bail only on medical grounds, as the Applicant was suffering from hematemesis disease. While the said application on medical grounds was pending, and while the Applicant was in jail, he engaged another Counsel who filed the present application for regular bail before this Court. However, since the Applicant was in jail, he was not aware of the simultaneous proceedings being pursued on his behalf by the lawyers engaged by him. Upon coming to know about the present application, the application before the learned Sessions Court at Rahata, filed only on medical grounds, came to be withdrawn. The Applicant is behind bars since 10.03.2025. Looking to the nature of evidence collected against him by the prosecution and the settled law that suspicion, however grave, cannot replace proof, there is hardly any material to bring home the guilt of the present Applicant. The incarceration of the Applicant cannot be treated as a pre-trial punishment, and as such, the Applicant may be released on bail. He further submits that the Applicant is ready to abide by any conditions

that may be imposed by this Court and would not flee away from the ends of justice.

5. As against this, the learned APP as well as the learned assisting Counsel strongly oppose the present application on the ground that the Applicant had committed a cold-blooded murder of his own father, as can be gathered from the evidence collected by the prosecution. It is submitted that there are serious flaws in the initial statements of the mother and sister of the Applicant, who had attempted to shield him. However, the subsequent statements of the witnesses show that it was the Applicant who committed the murder of the deceased. The Applicant, while in custody, recorded a memorandum under Section 27 of the Evidence Act, thereby leading to the discovery of the plastic pipe which was allegedly used to inflict injuries upon the deceased Dattatrya. The witnesses, namely Vimal Rajide, Suman, and Mangal Gavli, all sisters of the deceased Dattatrya, have specifically stated about the suspicious circumstances under which the deceased Dattatrya was killed by the Applicant with the assistance of his mother and sister.

. The learned Assisting Counsel Mr. V.S. Kadam further submits that the mother of the deceased, namely Sindhu, had submitted an application to the Superintendent of Police on 13.03.2025, thereby seeking a fair investigation and also requesting that other family members of the Applicant be added as accused in the present crime. It is further submitted that the Applicant has suppressed the fact that he had already approached this Court and

had simultaneously pursued an application before the Sessions Court for bail on medical grounds. The conduct of the Applicant has been severely deprecated by the learned Sessions Court, which expressed an apprehension that the Applicant has not approached the Court with clean hands. It is further submitted that if the Applicant is released on bail, may again flee away from the ends of justice and may not be available for trial.

6. The learned APP further submits that the postmortem report shows multiple contused lacerated wounds which cannot be the result of self-inflicted injuries, as submitted by the Counsel for the Applicant and in the initial statement of the mother of the Applicant. The weapon recovered from the Applicant pursuant to a memorandum under Section 27 of the Evidence Act was referred to the Medical Officer who conducted the postmortem. The Medical Officer of Pravara Institute of Medical Sciences submitted a report on 21.03.2025 stating that the injuries noted in column no. 17 of the postmortem report are likely to have been caused by the weapon, i.e., the plastic pipe recovered at the instance of the present Applicant. She therefore submits that there is ample evidence to bring home the guilt of the Applicant. The offence is punishable with life imprisonment. The Applicant has committed the murder of his father, and hence, taking into consideration the evidence collected by the prosecution, this is not a fit case to grant bail to the present Applicant.

7. I have gone through the charge-sheet made available by the

learned Senior Counsel for the Applicant. The perusal of the charge-sheet shows that initially an accidental death was registered in respect of the deceased on 06.03.2025. The statement of the mother of the Applicant was recorded on 08.03.2025. A perusal of the statements of Sanjivni (mother), and witnesses Nilesh, Ravishankar, Shivaji, and Vijay (neighbors) indicates that even before registration of the FIR, they had categorically stated that the wife of the deceased, Sanjivni, had seen the deceased inflicting injuries upon himself after latching the bedroom door from inside. She therefore sought help from the Applicant and other neighbors, who then broke open the lock and brought the deceased out. Further investigation was carried out, and after interrogation of the Applicant, the FIR came to be registered. A perusal of the aforesaid statements shows certain discrepancies between those recorded on 08.03.2025 and those recorded on 12.03.2025, wherein Sanjivni later stated that she subsequently came to know that Shubham had inflicted the injuries on the deceased, resulting in the death of Dattatrya. Suspicion however, grave cannot replace the proof required to form basis of conviction. The observations made are only with a purpose to decide the application, the same may not influence the trial Court. These discrepancies, of course, will be evaluated during the trial. However, taking into consideration the discrepancies in the statements and the period of incarceration, I am inclined to exercise discretion in favour of the Applicant and release him on bail, as it is a settled law that bail is the rule and jail is the exception. The apprehensions expressed by the learned APP as well as the learned Assisting Counsel can be

allayed by imposing suitable conditions upon the Applicant. Hence the following order :

ORDER

- (a) The Bail Application is allowed.
- (b) The Applicant - Shubham Dattatrya Gondkar be released on bail on furnishing PR. bond of Rs.50,000/- (Rupees Fifty Thousand) with two solvent sureties in the like amount, in connection with Crime No.256/2025 registered with Shirdi Police Station, Tq. Rahata, District Ahmednagar for the offences punishable under Section 103(1) of the Bhartiya Nyaya Sanhita, 2023, on the following conditions :
- (i) The Applicant shall not leave the jurisdiction of the Sessions Court except for medical treatment, for which the Applicant shall seek permission from the trial Court, after giving an opportunity to the prosecution.
 - (ii) The Applicant shall attend each and every date of the trial Court without fail unless exempted by the trial Court on emergent consideration.
 - (iii) The Applicant shall not pressurize the prosecution witnesses and shall not tamper with the prosecution evidence, in any manner.
 - (iv) The Applicant shall submit his Aadhar and PAN Card to the Investigating Officer and detailed addresses and phone numbers of himself and two of the near relatives.
 - (v) A single incident of the Applicant violating the conditions may entitle the Prosecution to seek cancellation of bail of the Applicant.

- (c) The bail application stands disposed of accordingly.
- (d) The application for assisting the Prosecution is disposed of.

MEHROZ K. PATHAN
JUDGE

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