IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO. 2352 OF 2025

AKASH ALIAS DHAMMA YESHU KHETRE
VERSUS
THE STATE OF MAHARASHTRA
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Advocate for Applicant : Senior Counsel Mr. V. D. Sapkal i/b Mr. S. R. Sapkal a/w Yash Anil Jadhav
APP for Respondents-State : Mr. B. B. Bhise
Advocate for Applicant (CriAppln) : Mr. Satej S. Jadhav

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WITH
CRIMINAL APPLICATION NO. 356 OF 2026
IN BA/2352/2025

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CORAM : SACHIN S. DESHMUKH, J.

Date : 27th January, 2026

ORDER :-

1. The applicant has approached this Court seeking regular bail in connection with FIR dated 17.09.2024 bearing Crime No. 605 of 2024 registered with Cidco Police Station, Dist. Chhatrapati Sambhajinagar for the offences punishable under Sections 109, 118(1), 115(2), 352, 189(2), 191(2), 191(3), 190 of the Bharatiya Nyaya Sanhita.

2. The case of the prosecution is that on 16.09.2024, between 10:00 pm and 10:30 pm, the informant Abhinay

Chandresh Dixit and his brother, Devesh @ Bunti, were walking to Mahakal Hotel near the Shivaji Maharaj Statue in Chh. Sambhajinagar to collect a dinner parcel. During their commute, they were intercepted by Gaurav @ Pilya, who called Devesh over to a closed tea stall. While they were conversing, Dhamma and Sai Jadhav arrived on a motorcycle, followed by 03–04 unidentified individuals on two additional motorcycles. Dhamma initiated a confrontation by aggressively questioning if the brothers considered themselves the "Dada" of the area, after which Dhamma, Sai, and Pilya began verbally abusing them.

3. It is further alleged that the encounter turned violent when Dhamma allegedly used a sword to strike Devesh on the back of the head, causing him to sustain a serious injury and collapse. When the informant attempted to intervene and hold Dhamma, Gaurav (alias Pilya) pelted a stone at the back of the informant’s head, causing further injury. The assault continued as Sai Jadhav used an iron rod to strike Devesh on the leg, while the 03–04 unidentified accomplices joined in by delivering slaps, kicks, and fist blows to both brothers. After the attack, the accused fled the scene. A friend Krish subsequently arrived to shift the informant and his brother to the hospital for medical aid.

The informant alleges that the above three accused, along with their unidentified accomplices, carried out the assault with the specific intention to kill. Accordingly, the FIR is lodged.

4. The previous application presented by the applicant bearing Bail Application No. 1111 of 2025 was dismissed as withdrawn by an order of this Court dated 28.07.2025 of this Court.

5. The learned senior counsel for applicant submits that the Applicant is a law-abiding citizen and has been falsely implicated in the present crime. While the FIR alleges an assault with intent to kill (Section 109 BNS / 307 IPC), the incident appears to have occurred during a sudden, spontaneous verbal confrontation. It is further submitted that there was no pre-planned conspiracy or motive established to support a charge of "attempt to murder."

6. The learned senior counsel for applicant further submits that co-accused Gaurav @ Pillu and Sai @ Rohit have been enlarged on bail by this Court. As such, the applicant is entitled to enlarge on bail on the ground of parity.

7. The learned APP has submitted that the Applicant is the prime accused (A-1) in a case involving an attempt to murder under Section 109 of the Bharatiya Nyaya Sanhita (BNS) (formerly Section 307 IPC). Unlike the other accused, the applicant was armed with a deadly weapon (sword) and delivered a targeted blow to a vital part, the head of the victim Devesh. It is further submitted that the nature of the weapon and the site of the injury clearly indiates a premeditated intent to cause death.

8. 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 as withdrawn 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.

9. 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.

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:*
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> *(a) The nature of accusation and the severity of punishment in case of conviction and the nature of supporting evidence.*
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> *(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.)*
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> *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 given specific reasons why in spite of such earlier rejection the subsequent application for bail should be granted."*

11. 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.

12. 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.

13. 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.

14. 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.

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. 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.

17. In the present case, prima facie, the accused is charged under Section 109 of the Bharatiya Nyaya Sanhita (BNS) (Attempt to Murder). The prima facie allegations are not of a general nature. The FIR specifically attributes the "deadly blow" to the applicant. The use of a lethal weapon (sword) on a vital part of the body (the head) indicates a clear prima facie intent to cause death.

18. Moreover, the principle of parity does not apply here. Unlike the 3 - 4 unidentified persons who allegedly used "slaps and kicks," Akash @ Dhamma is the main protagonist who initiated the physical assault. The specific role and the conduct of the accused are the factors in denying liberty in such serious cases.

19. The victim Devesh, sustained a head injury leading to giddiness and collapse. Under Section 480 of the BNSS, bail can be denied, if there are prima facie reasonable grounds to believe the accused is guilty of an offence punishable with death or

imprisonment for life.

20. 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.

21. 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.

22. 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.

23. 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. 1111 of 2025. When confronted with the fresh gdouns justifying reconsideration of the matter to change the view previously taken by this Court, the learned counsel for applicant could not demonstrate the same. 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.

24. 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**.

25. Resultantly, pending criminal application also stands disposed of.

26. 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