



IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO. 2365 OF 2025

Dnyaneshwar Narayan HiwaleApplicant

VERSUS

The State of Maharashtra & anotherRespondents

Mr. S. J. Salunke, Advocate for Applicant.
Mr. B. B. Bhise, APP for the State.

CORAM : SACHIN S. DESHMUKH, J.
DATE : 13th JANUARY, 2026.

PER COURT :

1. Applicant has preferred this Application seeking regular bail in connection with Crime No. 414/2024 registered with Pathari Police Station, Dist. Parbhani, for the offences punishable under Sections 103, 109, 189(2), 191(2), 191(3), 190, 115(2), 352 of the Bharatiya Nyaya Sanhita, 2023.

2. Case of the prosecution is that on 01.08.2024 at about 10.30 pm, informant went to bring milk in the shop of one Nadim. At that time, Applicant alongwith co-accused was present on the spot. Cousin of the informant namely Sunil Chavan came there. He told the informant that there was quarrel between him and his father. Applicant and co-accused misunderstood this conversation as

abusing and started abusing Sunil Chavan in filthy language. Co-accused Dipak and Sonya beat Sunil by fists and kicks blows and made him fall on the ground. Present Applicant picked up a piece of tile and hit on the head of Sunil. Other co-accused assaulted Sunil by means of stone. On hearing the noise of quarrel, mother of informant and one Balaji Kale came there and pacified the quarrel with the help of informant. They admitted Sunil in hospital. After undergoing primary treatment, Sunil was admitted to Government Hospital Parbhani. Subsequently, he was admitted to JJ Plus Hospital, Chhatrapati Sambhajinagar where he succumbed to injuries. On this backdrop, the First Information Report was registered.

3. Learned Counsel for Applicant submits that the incident has occurred on the spur of moment and there was no motive. There was no enmity between the Applicant and the deceased. As such, in view of completion of investigation and filing of charge-sheet, further detention of the Applicant is not warranted. Hence, prayed to allow the Application.

4. Per contra, learned APP vehemently opposed the Application submitting that the Applicant is involved in a serious offence wherein the deceased had lost his life. The Applicant has assaulted on the vital parts resulting into death of the deceased, which indicates his motive. By drawing attention of the Court to the serious nature of the offence, it is apprehended that the Applicant's release on bail would create a significant risk of tampering with prosecution evidence. Hence, prayed to reject the Application.

5. Upon considering submissions of both sides and perusing the material on record including charge-sheet, it is evident that the assault given by the Applicant is pre-dominant causing death of the deceased. Perusal of the post mortem report indicates in as much as 18 injuries and the cause of death is head injury. Thus, involvement of the Applicant in the crime is apparent.

6. 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*.)

7. 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. 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 offence.

8. 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.

9. In view of the aforesaid facts and precedents, it is evident that the present Applicant along with co-accused was initially assaulting the deceased with fist blows and kicks. Thereafter, the present Applicant picked up a piece of tile lying nearby the road and hit the same on the head of the deceased. The said fact is corroborated by the statement of witness namely Kasim Ansari. Thus, the contention that the said act was unintentional and caused by provocation cannot be considered particularly when the Applicant himself asserted "He's got too much pride, kill him" while hitting the head of the deceased. Thus, the intent on the part of the Applicant is prima facie apparent and the same is further corroborated by the medical report.

10. Resultantly, the bail application stands rejected.

(SACHIN S. DESHMUKH, J.)

dyb