



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO. 2490 OF 2025

SHAIKH MOIN SHAIKH MAJID
VERSUS
THE STATE OF MAHARASHTRA

...
Advocate for Applicant : Mr. Baig Mirza Mazhar Javed
APP for Respondent-State: Ms. R. R. Tandale
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CORAM : SACHIN S. DESHMUKH, J.
Date : 23rd January, 2026

ORDER :-

1. The applicant has approached this Court seeking regular bail in connection with FIR dated 21.03.2024 bearing Crime No. 232 of 2024 registered with Nandurbar City Police Station for the offences punishable under Sections 302 of the Indian Penal Code.

2. The informant, Ishwar Jagdish Solanki, a 20-year-old agricultural labourer, resides at Patachari, Adavad, Taluka Chopda. He lived in a joint household consisting of his wife Savita; stepmother Guddi Bai; minor son; stepbrother; and father Jagdish Phirgya Solanki (the deceased). The deceased was unemployed due to a physical disability resulting from a prior accident and was known to consume alcohol. A neighbor Subhash Terasingh Barela,

resided across the stream from their home.

3. It is further alleged that on 31.08.2024 approximately at 10:00 pm, the deceased left home on the family's Hero Honda HF Deluxe to repair a mobile phone. He returned on foot at 18:30 and subsequently took Rs. 2,500/- from Guddi Bai to purchase petrol, departing again shortly after. At 9:30 pm, he returned to the residence riding Subhash Barela's motorcycle. At 10:00 pm, the informant observed his father and Subhash Barela consuming liquor together on a cot. At 10:15, the informant witnessed the two men leaving the house together on a motorcycle.

4. It is further alleged that on 01.09.2024 at 07:00 am, the informant noticed that both his father and their motorcycle were missing. Guddi Bai confirmed that the deceased had not returned since leaving with Subhash Barela the previous night. Approximately at 11:00 am, a local resident Vitthal Mangilal Barela, alerted the informant that a body had been found near the Hazrat Pir Pakkar Shah Baba Dargah. The informant reached the spot and identified the body as that of his father in presence of the police.

5. It is further alleged that upon inspection of the body,

the informant observed severe injuries to the head and forehead with visible hemorrhaging. Additionally, there were multiple contusions across the chest, back, and stomach areas. The informant also noted specific marks around the neck indicating death by strangulation.

6. It is further alleged that based on the "last seen theory", the informant expressed strong suspicion against Subhash Terasingh Barela, as he was the last person accompanied by the deceased. The FIR alleges that between 22:15 on 31.08.2024 and 11:00 on 01.09.2024, unknown assailants (with specific suspicion directed at Subhash Barela) murdered the deceased by way of physical assault with an unknown weapon and strangulation.

7. The learned counsel for applicant submits that the FIR lodged on 01.09.2024, does not mention the name Shaikh Moin as an assailant. The informant specifically recorded his suspicion against Subhash Terasingh Barela based on the fact that the deceased was last seen in his company. The inclusion of the applicant at a later stage is an afterthought and lacks foundational evidence. The arrest of the applicant is effected on 05.09.2024 and since then, he is in jail. The investigation is complete and the

charge-sheet is also filed. As such, further incarceration of the applicant is unjustified. It is further submitted that the applicant is an innocent person and falsely implicated in the case. Hence, prayed to allow the application.

8. The learned APP has submitted that the accused is implicated in a brutal murder under Section 103 of the BNS. The PM examination report reveals extreme violence, including severe head trauma and manual strangulation. The nature of the injuries indicates a pre-planned intent to eliminate the deceased Jagdish Solanki. It is further submitted that while the FIR initially registered with suspicion against Subhash Barela based on the "last seen" circumstance on 31.08.2024, subsequent investigation has unearthed the involvement of Shaikh Moin. The crime was committed in furtherance of common intention. As such, considering the gravity of offence, prayed for rejection of the application.

9. 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.)

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 give specific reasons why in spite of such earlier rejection the

subsequent application for bail should be granted."

10. 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.

11. 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.

12. Equally, 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.

13. Moreover, 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.

14. 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.

15. 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.

16. In the present case, the PM examination report and the spot panchnama conducted on 01.09.2024 prima facie reveal a

high degree of brutality. The deceased sustained severe cranial injuries, multiple contusions on the chest and stomach and was ultimately strangled. Such a multi modal assault (use of weapons and manual strangulation) prima facie indicates a determined and violent intent.

17. Moreover, the statement of witness Iqbal Ramjan Tadv details a violent struggle and assault occurring in the hit of liquor. This testimony is corroborated by the medical examination conducted on 01.09.2024, which documented severe head trauma and strangulation marks and multiple contusions. The synergy between the witness's description of the violence and the actual injuries sustained by the deceased Jagdish Solanki, prima facie indicates the applicant's active participation.

18. As such, as has been held by the Hon'ble Apex Court in case of **Satpal Singh Vs. State of Haryana [(2020)2 SCC 118]** that bail ought to be withheld, if prosecution has established the 'last seen together' circumstance alongwith corroborative material.

19. Admittedly, while the applicant's name did not appear in the initial FIR dated 01.09.2024, the investigation has

progressed beyond the "last seen theory" involving the co-accused i.e. present applicant. The prosecution has prima facie presented substantial evidence indicating that the applicant was in constant telephonic contact with the co-accused Subhash Barela, during the critical window between 22:15 on 31.08.2024 and the discovery of the body at 11:00 on 01.09.2024. The recovery of [incriminating material/blood-stained articles] at the instance of the present applicant further strengthens the prima facie case against him.

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, 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 when considering bail application/s in serious offences, 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. The witness account clarifies that the death was the result of a collective assault by the accused persons. The fact that the attack occurred late on 31.08.2024 while the parties were intoxicated does not diminish the gravity of the offence. Instead, it underscores a reckless and violent common intention to cause such bodily injury as was likely to cause death. The brutality described by the witness justifies the continued detention of the applicant.

23. The offence is of murder, carrying the highest degree of punishment under the law. The detailed involvement of the applicant, as narrated by witness Tadvī, the bail application does not warrant consideration. The interest of a fair trial necessitates the isolation of the accused from the witness at this critical juncture.

24. 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 dated 05.03.2025 in Bail Application No. 209 of 2024. No fresh have been brought to the notice of the Court justifying reconsideration of the

matter to change the view previously taken by this Court. 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.

25. 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