IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIRCUIT BENCH AT KOLHAPUR

CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLN. NO. 3556 OF 2025

Mohammad Rafik Shabbir Mamdapur ……Applicant

Versus.

The State of Maharashtra ……Respondent

- *Mr. Harshad Nimbalkar, Senior Advocate a/w. Mr. Irshad Malik, Mr. Sajid Mahat, Mr. Vaibhav S. Kupawade, Mr. Satyam Nimbalkar & Mr. Shivam Nimbalkar for Applicant.*
- *Dr. A.A. Takalkar, A.P.P. for Respondent-State.*

Coram : ASHWIN D. BHOBE, J.

Date : 12th October 2026.

PER COURT :

1. Heard, Mr. Harshad Nimbalkar, learned Senior Advocate for the Applicant and Dr. Takalkar, learned A.P.P. for the Respondent-State.

2. By this Application, filed under Section 483 of the BNSS 2023, the Applicant seeks Regular Bail in connection with Crime No. 66 of 2024, dated 10th February 2024, registered with Kavathe Mahankal Police Station, District Sangli, for the offences punishable under Sections 302, 201, 120(B), 109, 34 of the Indian Penal Code.

3. Mr. Harshad Nimbalkar, learned Senior Advocate for the Applicant, submits that there are four (4) accused in Crime No. 66 of 2024 and that the Applicant is Accused No. 4. He submits that the said crime is registered as Sessions Case No. 100 of 2024 and is pending before the Court of the Additional Sessions Judge, Sangli ("Trial Court").

4. In brief, the prosecution case is that on 10th February 2024, at about 10:51 a.m., the Police Patil of Nagaj village received information that a dead body was found burning in the Ghat area near Nagaj Bhivghat road. Accordingly, the spot was visited and a half-burnt dead body of an unknown person was found. Police registered an FIR at Kavathe Mahankal Police Station and the investigation commenced. During the investigation, the Police arrested the Applicant and three other accused. The body was identified as that of Mohammad Sharif Hasansab Gavar ("deceased"), who was murdered by the accused. The motive for the murder was that the Applicant was having an extramarital affair with Bibiamina (the wife of the deceased). The Applicant, along with Accused Nos. 1 to 3, conspired to and committed the murder of the deceased to remove the deceased from the lives of the Applicant and Bibyana Mina.

5. Applicant was arrested on 16th February 2024. Bail Application filed below Exh.15 in Sessions Case No. 100 of 2024 was rejected by the Trial

Court on 23rd December 2024.

6. Mr. Harshad Nimbalkar, learned Senior Advocate for the Applicant, submits that the allegation against the Applicant is that he conspired to eliminate the deceased, allegedly on account of the Applicant's relationship with Bibiamina (wife of deceased). He further submits that the allegation against the Applicant is essentially one of conspiracy and that no overt act has been attributed to him.

7. Mr. Harshad Nimbalkar, learned Senior Advocate for the Applicant, submits that the prosecution relies on the following circumstances against the Applicant, namely, (i) his extramarital affair with Bibiamina; (ii) the statements of three witnesses who overheard the Applicant conspiring to eliminate the deceased; (iii) an extra-judicial confession by Accused No. 3; (iv) an extra-judicial confession by Accused No. 1 during a telephone conversation with a person named Sohail; and (v) another extra-judicial confession by Accused Nos. 1 and 3 before a person named Jahangir.

8. Mr. Harshad Nimbalkar, learned Senior Advocate for the Applicant, by referring to the material on record forming part of the charge sheet, submits that the chain of circumstances against the Applicant is not established. He further submits that the Applicant has made out a case for indulgence in the form of grant of bail.

9. Dr. A. A. Takalkar, learned A.P.P. for the Respondent-State, submits that the deceased was last seen with the Applicant on the motorcycle of the deceased. She further submits that two recovery panchanamas under Section 27 of the Indian Evidence Act, 1872, relate to the recovery of the motorcycle of the deceased and the Applicant's car, at the instance of the Applicant. She submits that the call detail records indicate that the Applicant was in contact with the other three accused and that the calls were made in close proximity to the date of the murder. She submits that the material on record is sufficient to establish the Applicant's guilt.

10. Perused the record with the assistance of the learned Advocates.

11. The dead body of the deceased was found on 10th February 2024. The FIR was initially registered against unknown persons in respect of the dead body of an unknown person. During the investigation, the identity of the deceased was established. The case of the prosecution is based on circumstantial evidence.

12. Bibiamina the wife of the deceased, father and brother of the deceased have stated that on 9th February 2024 the deceased was last seen with the Applicant on the motorcycle of the deceased. Bibiamina, lodged a missing-person report on 14th February 2024. As submitted by Mr. Harshad Nimbalkar, learned Senior Advocate for the Applicant, the said report does

not mention that the deceased had been taken away on his motorcycle by the Applicant. The prosecution alleges that the deceased was murdered in the car of the Applicant. No material indicating the presence of bloodstains of the deceased or other evidence has been found in the car of the Applicant.

13. Three prosecution witnesses, namely Shaharukh @ Umarfarukh Kaladagi, Sameer Shaikh and Mehboob Kodekal, whose statements were recorded by the Investigating Officer after approximately 75 to 78 days from the registration of Crime No. 66 of 2024, have stated that they overheard the Applicant conspiring with the accused Nos. 2, 3 & 4 to eliminate the deceased on three different dates at three different places in respect of the same incident. Mr. Harshad Nimbalkar, learned Senior Advocate for the Applicant, submits that it is too coincidental that the said three witnesses, having independently overheard the same statements of the accused, did so at three different places and at three different times.

14. The extra-judicial confession of the Applicant and the other accused is weak evidence and requires corroboration during the trial.

15. *Prima facie*, the motive attributed to the Applicant for conspiring to kill the deceased, namely the alleged extramarital offence with Bibiamina, does not appear persuasive at this stage, based on the records on file in this Application.

16. The chain of circumstances relied upon by the prosecution, for the purpose of deciding this bail application, is not established *prima facie*.

17. The Applicant has been in custody for almost two years and eight months. Mr. Harshad Nimbalkar, learned Senior Advocate for the Applicant, submits that although charges have been framed in Sessions Case No. 100 of 2024 on 12th August 2026 , no witnesses have been examined to date. The prosecution has listed 52 witnesses, the trial in Sessions Case No. 100 of 2024 is likely to take substantial time to conclude.

18. In the facts and circumstances referred to hereinabove, the Applicant's continued incarceration pending trial in Sessions Case No. 100 of 2024 is not warranted.

19. This Application is therefore allowed on the following conditions:-

(a) The Applicant -Mohammad Rafik Shabbir Mamdapur, shall be released on bail in Crime No. 66 of 2024, dated 10th February 2024, registered with Kavathe Mahankal Police Station, District Sangli, upon furnishing a P.R. bond of ₹1,00,000/- (Rupees One Lakh only), with one or two sureties in the like amount, to the satisfaction of the Additional Sessions Judge-3, Sangli, in Sessions Case No. 100 of 2024.

(b) The Applicant shall appear and report to the Investigating Officer, Kavathe Mahankal Police Station, District Sangli, on 2nd Monday, of every month from 10:00 a.m. and 11:00 a.m., until

conclusion of trial in Sessions Case No. 100 of 2024.

(c) The Applicant shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case to dissuade such person from disclosing the facts to the Court or any police officer. The Applicant shall not tamper with evidence in any manner.

(d) The Applicant shall regularly attend the proceedings in Sessions Case No. 100 of 2024 before the Trial Court and shall cooperate in the disposal of the trial. If the Applicant fails to appear before the Trial Court on the fixed date, it will be treated as a breach of condition, and the Trial Court will be at liberty to pass appropriate orders.

(e) In the event of any default in complying with the conditions or misuse of the liberty granted to the Applicant, the prosecution shall be at liberty to seek cancellation of bail.

20. The observations made in the present order are prima facie for deciding the Bail Application and will not affect the trial.

21. The Bail Application No. 3556 of 2025 is allowed.

[ASHWIN D. BHOBE, J.]

OMKAR SHIVAHAR KUMBHAKARN
Digitally signed by OMKAR SHIVAHAR KUMBHAKARN
Date: 2026.10.13 12:10:39 +0530