

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIRCUIT BENCH AT KOLHAPUR
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO. 1470 OF 2025

Suraj Sachin Aathawale
VERSUS
The State of Maharashtra

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Mr. Satyavrat Joshi (through VC) a/w Mr. Yash Fadtare a/w Mr. Vaibhav Halke a/w Mr. Sairaj Suryawanshi, Advocate for the Applicant.

Mr. Anand Subhash Shalgaonkar, APP for the Respondent-State.

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CORAM : SACHIN S. DESHMUKH, J.

DATE : 16th MARCH, 2026.

P. C. :

1. The applicant seeks regular bail in connection with C.R. No. 299 of 2024 dated 03.06.2024 registered with Miraj Rural Police Station, District Sangli, for the offences punishable under Sections 302, 324, 323, 143, 147, 148, 149 of the Indian Penal Code and Sections 37(1), 37(3) and 135 of the Maharashtra Police Act, 1951.
2. The prosecution case is that, on 02.06.2024 at about 8.00 p.m., the informant along with his friend had participated in the marriage procession at village Khanderajuri accompanied with

friends. At about 9.00 p.m., while they were dancing in the procession, the applicant along with four co-accused and two children in conflict with law also joined the procession and, during the course of the procession, a scuffle ensued between the parties. Thereafter, Accused No.1 allegedly signalled to the other co-accused, including the present applicant, to assault the informant. The informant attempted to pacify the situation.

It is further alleged that at about 10.00 p.m., Accused No.1 had a phone call to someone, and thereafter the applicant and the other co-accused approached the informant. Accused No.1 started assaulting Sumit Kamble, and the other co-accused also assaulted him with fist and kick blows. When the informant rushed to rescue, the applicant allegedly inflicted knife blows on the chest of Sumit Kamble and also on the left arm of the informant. Accused No.5 and his associates then shifted the informant aside and assaulted. In the said assault, Sumit Kamble sustained serious injuries. He was immediately taken to the hospital, where he was declared dead. Hence, the report.

3. Learned Counsel for the applicant submits that the applicant has been falsely implicated in the alleged crime and that all the co-

accused have been released on bail by the Trial Court. The applicant has been in custody since his arrest on 03.06.2024. It is further submitted that there is inconsistency between the nature of the weapon allegedly recovered and the injuries reflected in the injury certificate. It is also submitted that there are contradictions in the statements of the witnesses and that the provisions of Section 149 of the Indian Penal Code are not attracted against the applicant. Considering that the investigation is complete, the further incarceration of the applicant is unjustified.

4. Per contra, the learned A.P.P. has vehemently opposed the application, submitting that the applicant is involved in a serious offence of murder and that the alleged knife has been recovered at the instance of the applicant. It is further submitted that, considering the material collected by the Investigating Agency and the severity of the punishment prescribed, i.e., imprisonment for life or death, there is a possibility of the applicant fleeing away. Hence, it is prayed that the application be rejected.

5. Having heard the submissions from both the sides and upon perusal of the record including charge-sheet indicates that the applicant is involved in an offence of murder, which is punishable

with life imprisonment or death.

6. The Honourable Apex Court, in the 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.

8. The Honourable 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.
9. Equally, the Hon'ble Apex Court, in the 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.
10. The Honourable Apex Court, in the 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.
11. In light of the aforesaid facts and precedents, further perusal of the record *prima facie* indicates that initially, on the day of the incident, a minor altercation had taken place between the accused and the complainant party during the marriage procession. In response to the same, the applicant along with the co-accused

gathered at the spot and created a ruckus in the said marriage procession. As such, the essential ingredients of a common object and the formation of an unlawful assembly consisting of more than five persons are prima facie satisfied, and therefore, the provisions of Section 149 of the Indian Penal Code are attracted against the applicant.

12. In the light of the aforesaid fact, it would also be apt to reproduce the observation rendered by the Hon'ble Apex Court in the case of **Sitaram Kuchhbedia Versus Vimal Rana and Others**¹ as follows:

“66. Once it is established that an unlawful assembly existed and the accused-respondents intended to commit murder of deceased-Bhaggu in furtherance of the common object of such assembly, the individual attribution of the fatal injury fades into insignificance. It is trite law that Section 149 IPC embodies the principle of vicarious liability and renders every member of an unlawful assembly guilty of the offence committed in prosecution of the common object.

67. The object of the provision is to ensure that criminal liability cannot be evaded on the plea that specific role of the particular accused could not be discerned from the evidence. Conduct of each person forming the unlawful assembly, coupled with participation in prosecution of the common object, is sufficient to fasten vicarious liability on every member of the assembly for the offence committed by any member of that assembly. ”

13. As far as the release of the co-accused by the Trial Court is concerned, it is pertinent to note that the applicant stands on a

¹ 2026 INSC 178

different footing in view of the prima facie overwhelming material available against him and particularly assault to deceased on vital part of the body, with lethal weapon, causing death.

14. Nevertheless, the Hon'ble Apex Court in the case of ***Sagar Vs. State of U.P.***² has cautioned against treating parity as a sole ground for bail and has cast a further burden upon the Court to consider other relevant aspects while deciding the application for bail.

15. Upon perusal of the record further indicates that there is a specific allegation against the applicant of having used a knife and inflicted a stab injury on the chest of the deceased, and the said weapon has been recovered at the instance of the applicant by the Investigating Agency. The said aspect is further corroborated by the statements of the witnesses as well as the post-mortem report. Thus, a prima facie case is established against the applicant.

16. Resultantly, the application does not warrant consideration, accordingly same stands rejected.

[SACHIN S. DESHMUKH, J.]