

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

CRIMINAL BAIL APPLICATION NO. 3479 OF 2025

Asif Masjid Shaikh
VERSUS
The State of Maharashtra

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Mr. Priyal Sarda i/by Mr. Onkar Bajaj, Advocate for Applicant.

Mr. Nitin B. Patil, APP for the respondent-State.

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CORAM : SACHIN S. DESHMUKH, J.
DATE : 8th APRIL, 2026

P. C. :

1. The applicant has approached this Court seeking regular bail in connection with FIR dated 17.07.2023 bearing Crime No. 114 of 2023 registered with Medha Police Station, District Satara, for the offences punishable under Sections 302, 114 read with Section 34 of the Indian Penal Code.

2. The prosecution case is that, on 15.07.2023 at approximately 04:45 p.m., the informant, while visiting a waterfall in Javali Taluka with his associates, witnessed a violent assault perpetrated by two unidentified male accused persons upon his friends. According to the informant, the accused, described as being 20 to 25 years of age,

brutally assaulted the victims with kicks and blows near a slope. Thereafter, acting upon the instigation of their accomplices, who exhorted them to “throw them into the valley,” the accused intentionally pushed both victims into a deep gorge. Upon the arrival of the police and subsequent search operations, the bodies of both victims were recovered from the valley. The prosecution contends that the accused persons, acting with common intention, committed the willful murder of the two victims by physically assaulting them and thereafter pushing them into the valley. Hence, the report.

3. This is a successive bail application. When confronted about the change in circumstances, the learned counsel for the applicant submits that the earlier Bail Application No. 1239 of 2024 was disposed of as withdrawn by an order of this Court dated 26.08.2024 with liberty to approach this Court after nine months, if there is no progress in trial.

4. To support the plea of delay in trial, the learned counsel for the applicant has placed reliance on the order of the **Hon’ble Apex Court in the case of Pardeep Kumar @ Banu Versus State of Punjab** in Criminal Appeal No.1341 of 2026 dated 13.03.2026.

5. The learned counsel for the applicant further submits that since

the aforesaid order, the trial has not progressed and the applicant has been in custody since his arrest from 20.07.2023 i.e. for more than two years and eight months. The applicant is falsely implicated and prima facie there is no sufficient material on record to establish the offence of murder. No direct role is attributed to the applicant. As such, prayed to allow the application.

6. Learned APP has submitted that since this a succession bail application, it is liable to be dismissed at the threshold. The trial is under progress and given the overwhelming evidence against the applicant, prayed to reject the application.

7. Having heard the submissions from both the sides and upon perusal of the record indicates that the applicant is charged for the offence of murder which is punishable by life or death imprisonment.

8. The Hon'ble 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.)

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.”

9. Thus, the Apex Court has cast of onus on the Court while dealing with a successive bail application and that a subsequent bail plea must be predicated on a substantial change in circumstances or the emergence of new material facts after the rejection of the previous application.

10. In view of the aforesaid precedent, the record indicates that the earlier bail application was disposed of as withdrawn while showing disinclination to entertain the application. The record further indicates that the applicant has preferred successive bail

application before the trial Court and the same are rejected.

11. Further perusal of the record indicates that pursuant to the order of this Court dated 25.11.2025, the trial Court has submitted the report of the trial stating that the accused/applicant had refused to frame charge on account of non-availability of legal assistance. Moreover, unnecessary adjournments are sought, thereby causing delay in trial. However, the trial Court has permitted the applicant to engage the counsel through legal-aid services authority and has further stated that the trial can be proceeded on day to day basis provided that the applicant cooperate with the same.

12. In light of the aforesaid report by the trial Court, it is prima facie evident that the delay so caused in the trial is deliberate and intentional on the part of the applicant. Thus, the specious plea of delay in trial is not available to the applicant.

13. Nonetheless, 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 instant case, the trial Court is making an endeavour to conclude the trial at the earliest. As such the plea of delay in trial as held in the **Amit Kumar** (Supra) cannot be considered in isolation.

14. Furthermore, the alleged offence has taken place in a public place near a waterfall in front of several eye witnesses and their statements are recorded by the investigating agency. The applicant is identified in the test identification parade and the same is placed on record. Apart from the above, the applicant has been released on bail during trial. The report of the Trial Court indicates that the trial is being protracted at the instance of the applicant. In such circumstances, the specious plea of bail on the ground of delay in trial is not available to the applicant. Therefore, given the overwhelming evidence against the applicant and considering the serious nature of offence, I am not inclined to exercise discretion in favour of the applicant.

15. Accordingly, the bail application is rejected.

16. In the interest of justice, the trial Court is requested to make an endeavour to conclude the trial expeditiously in accordance with law.

[SACHIN S. DESHMUKH, J.]