

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

CR. APPEAL NO. 34 OF 2026

Vijay Baban Kedar

VERSUS

The State of Maharashtra And others

...

Mr. Satyavrat Joshi a/w Ms. Tanvi Tapkire, Mr. Sachin Sargar,
Mr. Gaurav Chandole i/by Mr. Vaibhav Halake, for the Appellant.

Mr. Rohan Hogle i/by Mr. Amit Khotlande, Advocate for Respondent
No.3.

Mr. Nitin. B. Patil, APP for the Respondent Nos.1 and 2-State.

...

CORAM : SACHIN S. DESHMUKH, J.

DATE : 9th APRIL, 2026.

P. C. :

1. By this Appeal, the appellant has raised an exception to the order dated 17.01.2025 rendered by the learned Special Judge (Atrocity) Pandharpur in Bail Application at Exhibit-35 in Special Case No.35/2023 thereby rejecting the prayer for bail in connection with Crime Register No.683 of 2023 registered with Sangola Police Station, Sangola District Solapur for the offences punishable under Sections 302, 201 read with Section 34 of the Indian Penal Code and Section 3(2)(va) Scheduled Castes and Schedule Tribes (Prevention of Atrocities) Act, 1989.

2. The prosecution case is that on 02.08.2023 between 21:30 hours and on 03.08.2023 04:30 hours, Suraj (deceased) went for a walk after dinner but did not return home. Upon a search being conducted by the informant and the relatives, the dead body of the deceased was found in the vicinity of Vasud village, on the Vasud–Kedarwadi road, near the agricultural field of one Appaso Kedar.

3. It is alleged that some unknown persons, acting with common intention and for unknown reasons, assaulted the deceased with a sharp-edged weapon, inflicting grievous injuries to his head and the back of his neck, thereby causing his death. It is further alleged that, with an intent to destroy evidence, the accused dragged and disposed of the dead body in the sugarcane field of Appaso Kedar, situated at Gat No. 963, Mauje Vasud. Hence, the report came to be lodged.

4. Learned counsel for appellant submits that the appellant is falsely implicated in the present case. The entire case of the prosecution is based on circumstantial evidence. Nothing incriminating is recovered from the spot of incident. There is delay in recording the statements of the witnesses. The appellant is in custody since his arrest on 18.08.2023 i.e. for more than two years

and seven months. Since the investigation is complete and the charge-sheet is filed, further detention of the appellant is not required.

5. It is further submitted by the learned counsel for the appellant that this is a successive plea for bail, pursuant to the order of this Court dated 17.10.2024 in Criminal Appeal No.186 of 2024, wherein the appellant was granted liberty to file a fresh bail application before the trial Court in the absence of substantial progress in trial within a period of one year. However, the trial Court rejected the application for bail vide the order dated 17.01.2025. Accordingly, this appeal is preferred.

6. Learned APP has opposed the appeal submitting that the offence is serious in nature. The earlier plea of the appellant was rejected on merits by this Court. Consequently, the trial Court has rightly rejected the same by passing the order under challenge. Hence, the present appeal is abuse of process and prayed to dismiss the same.

7. Having heard the submissions from both the sides and upon perusal of the record including charge-sheet *prima facie* indicates that the appellant is accused No.2 and is being prosecuted for the

offences punishable under Sections 302, 201 read with Section 34 of the Indian Penal Code and Section 3(2)(va) Scheduled Castes and Schedule Tribes (Prevention of Atrocities) Act, 1989.

8. Further perusal of record indicates that this Court has on earlier occasion dealt with the plea of bail of the appellant on merits and had dismissed it. Raising an exception to the same, the appellant had preferred the Special Leave Petition (Criminal) No. Diary No.10155 of 2025 before the Hon'ble Apex Court which came to be dismissed vide order dated 17.04.2025.

9. When confronted about the change in circumstances or other fresh grounds, learned counsel for the appellant has failed to demonstrate any, except that of delay in trial.

10. 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."

11. Thus, the Apex Court has cast of onus on the Court while dealing with a successive plea for bail 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.

12. Equally, 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, the trial is progressing and further the prosecution has demonstrated the efforts to conclude the trial. Considering the seriousness of the offences involved, an

overwhelming material weighs against the appellant.

13. Furthermore, the Hon'ble Apex Court in case of '*X*' *Versus the State of Rajasthan*¹ has cautioned against granting bail in serious offences like rape, murder, dacoity etc. once the trial commences and the prosecution witnesses are being examined.

14. In view of the aforesaid precedents and upon perusal of the record indicates that the charge is framed against the appellant and the matter is posted for evidence. Moreover, there are around eight criminal antecedents as noted by this Court in the previous order.

15. Except delay in trial, no other fresh grounds are raised by the appellant. As such, in view of the verdict of *Amit Kumar* (supra), the same cannot be considered and appreciated, particularly in absence of any other substantial change in circumstance.

16. Resultantly, the appeal sans merit and the same stands dismissed.

[SACHIN S. DESHMUKH, J.]

¹ 2024 INSC 909