

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIRCUIT BENCH AT KOLHAPUR
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLN. NO. 208 OF 2026

YASH MAHESH GAIKWAD
VERSUS
STATE OF MAHARASHTRA AND ANOTHER

Advocate for Applicant : Ms. Shubhangi Parulekar a/w Mr. Grishma Parab
APP for Respondents-State : Dr. Ashvini A. Takalkar

CORAM : SACHIN S. DESHMUKH, J.
Date : 27th March, 2026

ORDER :-

1. The applicant has approached this Court seeking regular bail in connection with FIR dated 12.06.2024 bearing Crime No. 261 of 2024 registered with Satara Taluka Police Station, Dist. Satara for the offences punishable under Sections 302, 109, 307, 323, 504, 506 read with 34 of the Indian Penal Code.

2. The FIR was lodged on 12.06.2024. The deceased was a resident of Village Patkhal, Taluka Satara, where he resided with his wife, while his two sons lived in Pune. It is alleged that on 11.06.2024, at approximately 09:00 pm, while the deceased was in Satara, his wife contacted him through telephone and informed

that she was returning home. Subsequently, at 10:22 pm, his wife called again, urgently requesting him to return as the accused, Shivjeet Mane, along with three unidentified companions, had arrived at their residence and were issuing threats while kicking the door. The deceased reached his residence shortly thereafter at approximately 10:40 pm.

3. Upon the deceased's arrival, Shivjeet Mane and the three unidentified companions confronted and assaulted him. During the confrontation, threats were extended to the deceased and his son. The situation escalated when the accused poured petrol to set the deceased on fire. The deceased's wife and neighbors attempted to intervene and rescue him, during which they were also assaulted before the accused fled the scene.

4. It is further alleged that the fire was extinguished and the deceased was shifted to the Civil Hospital in Satara for treatment. While hospitalized, statement of deceased was recorded by the police leading to the registration of FIR under Sections 307, 323, and 506 read with 34 of the IPC. Unfortunately, the deceased succumbed to burn injuries on 13.06.2024, while receiving further care in Pune, resulting in the addition of a charge under Section

302 of the IPC.

5. The previous application presented by the applicant bearing Bail Application No. 8 of 2026 was dismissed as withdrawn by an order of this Court dated 09.02.2026.

6. When confronted about the successive application, the learned counsel for applicant submits that the first bail application was dismissed as withdrawn by this Court and no reasons are recorded. Thus, submitted that the present application be heard on merits.

7. The learned counsel for applicant submits that the applicant Yash was not named in the FIR. While the main accused, Shivjeet Mane, is alleged to have brought petrol and ignited the fire, the role attributed to the unknown companions is general and vague. There is no evidence that Yash shared the specific common intention to cause death. The applicant did not accompany the co-accused in the house and was sitting in his car. Despite sufficient opportunity, the dying declaration of the deceased has not been recorded. Except that of the prime accused, the co-accused are released on bail by the trial Court, making the applicant entitled for

parity. The applicant is in custody since 12.06.2024. The trial is likely to a considerable period. As such, further incarceration of the applicant is not warranted. Hence, prayed to allow the bail application.

8. The learned APP has submitted that an overwhelming material is produced by the investigating agency. It is further submitted that the offence is of an extremely serious in nature. The accused persons, including this applicant, acted with a common intention to commit a cold-blooded murder. The victim was not just assaulted but was doused with petrol and set on fire in front of his own residence. The brutality of the act reflects a depraved mindset and granting bail in such a gruesome case of homicide would send a wrong message to society.

9. It is further submitted that in any case, this is a successive bail application and there is no change in the circumstances. Initially, application of the applicant was dismissed as withdrawn. This Court must give serious consideration while dealing with maintainability of successive bail application at a subsequent stage without any substantial change in circumstances. Hence, prayed to reject the bail application.

10. 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."

11. The Apex Court's mandate regarding rejected applications highlights a broader judicial duty that extends to cases where a prior application was withdrawn, in any case, it was consciously avoided by the applicant, while seeking withdrawal of the application. Although a withdrawal does not constitute a decision on merits, the Court remains burdened with the onus of justifying a subsequent grant of relief. Therefore, in entertaining a successive application, this Court must acknowledge the previous proceedings and record explicit and specific reasons to substantiate its decision.

12. Further, 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.

13. 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.

14. Equally, 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.

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 offence.

16. 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.

17. In the present case, the nature of the crime is prima facie heinous and demonstrates extreme severity. The deceased, was set on fire in front of his own residence following a premeditated confrontation. The use of petrol on highly inflammable liquid as an accelerant to immolate a person reflects a cold-blooded and calculated intent to kill. In cases involving Section 302 of the IPC, where the punishment extends to life imprisonment or death, the Court must prioritize the interests of justice and social security over the personal liberty of the accused.

18. The fact that the applicant accompanied the co-accused reached to the victim's residence, conscious they were carrying petrol and other incendiary articles, establishes a clear pre-arranged plan and a shared meeting of minds. His role in transporting the assailants to the spot and subsequently assisting them to flee the scene immediately after the barbaric act confirms his active participation in the execution of the crime.

19. Thus, the applicant's contention that he remained seated in the car while the prime accused set the deceased on fire does not dilute his criminal liability; rather, the CCTV footage and prosecution evidence reveal a calculated and coordinated conduct that prima facie attracts Section 34 of the IPC.

20. In such a heinous case of immolation, the act of one is the act of all; the applicant's presence as the getaway driver or lookout is an integral part of the organized attack, demonstrating a cold-blooded intent to ensure the crime's success.

21. Although the applicant was not named in the initial FIR dated 12.06.2024, he was identified. The incident occurred at 10:40 pm in the presence of the deceased's wife and neighbors, who are eyewitnesses. These witnesses were also reportedly assaulted by the accused group, giving them a close-range opportunity to identify the assailants.

22. 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, the overwhelming material weighs against the applicant.

23. Having regard to the legal position settled by the Hon'ble Apex Court in the case of **X vs. State of Rajasthan (2024 INSC 909)**, it is observed that the discretion to grant bail must be exercised with extreme caution once the trial has progressed significantly. The Hon'ble Supreme Court has held as under :-

"14. Ordinarily in serious offences like rape, murder, dacoity, etc., once the trial commences and the prosecution starts examining its witnesses, the Court be it the Trial Court or the High Court should be loath in entertaining the bail application of the accused."

24. Therefore, the submission of the learned counsel for applicant in relation to delay in trial, the same cannot be considered in isolation. As has been held by Hon'ble Apex Court in case of **Amit Kumar** (supra), the delay especially in cases involving serious offences, cannot by itself be a ground for bail.

25. In the case of **Sagar vs. State of U.P. (2025 INSC 1370)**, the Hon'ble Apex Court held that the principle of parity cannot be applied mechanically or as an absolute right. The Court

clarified that an accused is not entitled to bail simply because a co-accused has been released; rather, the Court must conduct a comparative analysis of the individual roles, the nature of the allegations, and the specific culpability of each person.

26. Considering the role and conduct of the applicant, his involvement is distinctly different from that of the co-accused who were released on bail. His specific actions such as escorting the accused to the spot and subsequently facilitating their escape, mark a significant level of participation. Moreover, parity cannot be treated as the sole ground for bail, especially when the applicant's overt acts set him apart from those previously granted relief.

27. 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.

28. Needless to states that the observations rendered herein are to the extent of this application and the trial court shall not be influenced by the same.

(SACHIN S. DESHMUKH, J.)

Omkar Joshi