

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIRCUIT BENCH AT KOLHAPUR
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 225 OF 2026

Tanveer Harun Jamadar
VERSUS
The State Of Maharashtra And Anr.

...
Advocate for Applicant : Ms. Pallavi Kante
APP for Respondents-State : Mr. N. B. Patil
...

CORAM : SACHIN S. DESHMUKH, J.
Date : 24th March, 2026

ORDER :-

1. The applicant has approached this Court seeking regular bail in connection with FIR dated 12.05.2025 bearing Crime No. 97 of 2024 registered with Sanjay Nagar Police Station, Dist. Sangli for the offences punishable under Sections 103(1), 189(2), 191(2), 191(3), 190, 61(2) of the Bhartiya Nyaya Sanhita, 2023.

2. The prosecution case is that the complainant received a telephonic call from his younger brother Vasim, on 25.03.2026, reporting that their brother had been subjected to a violent assault, upon information from a friend named Azaruddin, who witnessed the deceased being attacked by six specific assailants identified as Tushar Zingurde, Shrikant Dage, Tanvir @ Tanya Jamadar, Sanjay

Gadade, Aman Shabbir Nagaraji, and Sandesh. Upon receiving this information, the complainant and Vasim immediately proceeded to the scene of the incident to provide assistance. They subsequently transported the victim to the Civil Hospital for emergency medical treatment, where the attending medical authorities officially declared him deceased on arrival.

3. The learned counsel for the applicant submits that the present case is an over-implication, contending that the applicant has been wrongfully embroiled in the alleged offence. It is submitted that since the co-accused has already been admitted to bail by this Court, the applicant is entitled to the same relief on the ground of parity. The counsel further submits that the investigation is now complete and the charge-sheet is filed. In the process, the learned counsel invited the Court's attention to the orders passed in Bail Application No. 3717 of 2025 and Bail Application No. 3516 of 2025.

4. The learned APP vehemently opposes the application, submitting that the complicity of the applicant is established through the ocular accounts of witnesses present at the scene. It is submitted that the witnesses have corroborated the presence of the applicant as an active member of an unlawful assembly, which

subsequently resulted in the commission of a heinous offence attracting the maximum penalty of death or imprisonment for life. The prosecution further maintains that the gravity of the accusations and the nature of the evidence indicate that the enlargement of the applicant on bail at this stage would pose a significant risk of tampering with the prosecution witnesses. Consequently, the learned APP prays for the rejection of the application.

5. 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 and the prosecution has placed overwhelming evidence on record against the applicant.

6. 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.)

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. Similarly, 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.

9. 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, *prima facie*, collected overwhelming evidence against the present applicant.

10. 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.

11. 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.

12. Upon a perusal of the record, it appears *prima facie* that the presence of the applicant at the scene of the incident has been clearly noted by the prosecution witnesses. The evidence *prima facie* indicates that the accused persons formed an unlawful assembly with the common object of committing a violent act,

during which multiple assaults were inflicted upon the deceased, directly resulting in his death.

13. While the learned counsel for the applicant contends that no specific overt act has been attributed to the applicant and seeks bail on the ground of parity with co-accused already released, this Court must consider the collective liability inherent in such an assembly.

14. In this context, a necessary reference can be had to the principles laid down by the Hon'ble Apex Court in the case of **Sitaram Kuchhebedia Vs. Vimal Rana and Ors 2026 Supreme(SC) 193** wherein it is held as under :-

"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."

15. The Hon'ble Apex Court further held in **Sitaram** (supra) has held that 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. In such circumstances, it is immaterial as to which accused delivered the fatal injury, once the offence is shown to have been committed in furtherance of the common object of the unlawful assembly.

16. In the instant case, the presence of the applicant along with the co-accused at the spot of incident, prima facie establish that the applicant acted pursuant to the common object of the unlawful assembly.

17. 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 actively progressing. Considering the seriousness of the offences charged, the extensive material evidence presented weighs overwhelmingly against the applicant.

18. 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. Given the overwhelming evidence on record, the applicant cannot claim parity as a matter of course.

19. The material on record establishes a clear prima facie case regarding the applicant's involvement. The evidence reveals a premeditated act, followed by a deliberate attempt to disguise the incident as an accident. Given the applicant's proven presence and overt participation, a common object is established, rendering the specific nature of his individual act secondary to the collective criminal design. Thus, once the common object is proved, every hand in the design becomes equally stained.

20. 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***.

(SACHIN S. DESHMUKH, J.)

Omkar Joshi