

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO.1418 OF 2025

Sohel Gulhasan Khan	...Applicant
V/s.	
The State of Maharashtra	...Respondent

Mr. Amin Solkar a/w Mr. Mohd. Taha, for the Applicant.
Ms. S. S. Kaushik, APP for the Respondent-State.
API- Jayashri R. Anawane, Bhiwandi City Police Station, Thane, present.

CORAM : SHYAM C. CHANDAK, J.
DATED : 6th MARCH, 2026

P.C. :-

. By this Application, the Applicant is seeking his release on bail in C.R. No.1 of 2021 registered with Bhiwandi City Police Station, under Sections 302, 201 and 364 r/w 34 of Indian Penal Code, 1860. Therein, the Applicant was arrested on 01.01.2021. His Application seeking his release on bail was rejected by the learned Additional Sessions, Judge-4, Thane vide Order dated 18.08.2021. Thereafter, the Applicant filed Criminal Bail Application No.3315 of 2021 before this Court which was disposed of by Order dated 28.01.2022. Said Order reads :-

"1. After arguing for some time, when I expressed my disinclination to grant relief in this application, learned Counsel for the applicant prays for unconditional withdrawal of this application.

2. Permission is granted. The application is allowed to be withdrawn unconditionally and is disposed of accordingly."

2) Heard Mr Solkar, the learned Counsel for the Applicant and Ms. Kaushik, the learned APP for the Respondent-State. Perused entire record.

3) The prosecution case is that, on 25.12.2020, at about 5:00 p.m., deceased Krishnkumar left his residence, however, he did not return home

in the night. Therefore, his brother Vijay Kesharwani, filed a missing complaint on 26.12.2020. On 31.12.2020, at about 11:00 p.m. Ramesh Kesharwani, a friend of the deceased, told the informant that the deceased had taken Rs.25,000/- from him to purchase Yarn and at that time the deceased had told him that he would go to the Applicant. Between 27.12.2020 to 01.01.2021, the deceased was contacted on his mobile phone but he was not attending it. Therefore, the informant filed the report suspecting that the Applicant abducted the deceased and committed his murder. In turn, police registered this crime and investigation commenced.

4) Investigation revealed that the deceased used to inform the police that the Applicant and co-accused were purchasing stolen property. Consequently, the Applicant was suffering financial losses. Therefore, the Applicant called the deceased at his godown on the pretext of scrap business, and then the Applicant and the co-accused committed murder of the deceased by strangulation. Further, they disposed of the dead body. During police custody, on 01.01.2021, the Applicant made a voluntary disclosure leading to recovery of the dead body of the deceased which was concealed in bushes at a secluded place. Subsequently, the co-accused was arrested and keys of the godown, residence and two wheelers were recovered from him pursuant to his disclosure statement. Therefore, the charge-sheet was submitted for the said offence.

5) Learned Counsel Mr Solkar appearing for the Applicant submitted that, the statement of the prosecution witness Mr Rana was recorded on 01.01.2021. Therein Mr Rana has stated that on 25.12.2020 he had last seen the deceased and the Applicant together as they had visited his hotel for tea. His statement indicates that police were investigating near his hotel on 31.12.2020 and at that time he had come to know that the deceased was murdered. However, at that time Mr Rana did not inform the police about the 'last seen together'. There is huge time gap between the fact 'last seen

together' and recovery of the body. Three inferences are possible about the recovery of the dead body *viz.* the Applicant himself had concealed the body there; or that, he had seen some other person hiding it; or that, somebody told him that the body was hidden there. In this background, *prima facie* it appears that the Applicant was innocent.

Next ground pressed into service is of parity. Mr Solkar has submitted that, the co-accused from whom the keys of the deceased were recovered, has been granted bail by this Court *vide* Order dated 11.03.2025 in Bail Application No.1262 of 2024. According to Mr Solkar, the Applicant has been equally placed in the case.

Lastly, Mr Solkar has submitted that the Applicant is in jail since last five years. The charge was framed in year 2022. Till date, no witness has been examined by the prosecution. The Applicant cannot be detained in jail as a pre-trial punishment. Therefore, the Applicant is entitled for bail.

6) In contrast, Ms Kaushik, the learned APP submitted that, there is sufficient material against the Applicant that, at the relevant time, he had called the deceased at his godown and then he along with the co-accused committed his murder and lastly, they disposed of the body at the secluded place after setting it on fire, so as to cause disappearance of the evidence. Therefore, the offence is serious. Ms Kaushik empathetically submitted that the fact of recovery of the dead body at the instance of the Applicant itself distinguishes his case from the case against the co-accused. As such, the ground of parity cannot be applied to the case. She submitted that the case before the Sessions Court is fixed on 07.03.2026 when the prosecution is going to examine the witness. Therefore, presently, the ground of incarceration is not available to the Applicant.

7) I have considered these submissions and carefully perused the record. Record indicates that on 25.12.2020, at about 5:00 p.m., after the

deceased had left his residence, witness Mr Rana had last seen the deceased together with the Applicant and one more person with him. Thereafter, the three went towards the godown of the Applicant. There is material that, just before going to the hotel, the deceased had taken an amount of Rs.25,000/- from witness Mr Kesharwani for yarn business and then the deceased left saying that he would go to the Applicant. Since then, the deceased was missing and therefore, his missing complaint was filed on 26.12.2020. Admittedly, the Applicant was arrested on 01.01.2021. On the same day, the dead body of the deceased was recovered at the instance of the Applicant. The body was found in burnt condition. This indicates that after committing the murder the body was set on fire to cause disappearance of the evidence. Since the Applicant was doing the scrap business, he had motive to commit the crime. Thus, there is a *prima facie* case against the Applicant of having committing a brutal murder of an innocent. Therefore, the ground of parity is not applicable to him. The trial is already fixed. The prosecution is prepared to examine the witnesses. If trial Court is directed to expedite the trial, it will address the question of incarceration.

8) In view thereof, at present, no case is made out to release the Applicant on bail. Hence, the Application is rejected.

9) However, the trial Court is requested to complete the trial within 18 months from today. If the trial is not over within that period, the Applicant will be at liberty to renew his prayer for bail.

10) Application stands disposed of in the aforesaid terms.

(SHYAM C. CHANDAK, J.)