

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL BAIL APPLICATION NO.2570 OF 2025

Kunal @ Anna Prakash Mudaliyar

Age- 25 years, Occ.- Driver,

Residing at - Pan Mala, Durga Mata Mandir,

Gali No.1, Shirdi, Tal- Rahta, Ahmednagar- 423109

(Presently Lodged Kalyan Dist. Prison)

...Applicant

V/s.

The State of Maharashtra

(Through Kasara P.S., Thane)

...Respondent

Mr. Veerdhawal Deshmukh a/w Adv. Shreyprasad Atigre, for the Applicant.

Ms. Mahalaxmi Ganapathy, APP for the Respondent-State.

Mr. F.R. Tadavi, PN-3059, Kasara Police Station, present.

CORAM : SHYAM C. CHANDAK, J.

RESERVED ON : 10th MARCH, 2026

PRONOUNCED ON : 18th MARCH, 2026

ORDER :-

. Present Application filed under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023 seeking release of Applicant on bail in C.R. No.107 of 2023 registered with Kasara Police Station, Thane (Rural) under Sections 302, 201, 364 and 34 of Indian Penal Code, 1860 leading to registration of a Sessions Case No.381 of 2023. Now, pending before the Sessions Court at Kalyan.

2) Heard Mr. Deshmukh, the learned Counsel for the Applicant and Ms. Mahalaxmi Ganapathy, the learned APP appearing for the Respondent-State. Perused entire record.

3) The prosecution case is that on 19.06.2023, at about 18.30 hours, the informant Ramdas Ratan Rathod, PHC B.No.2340 was patrolling on Mumbai-Nashik lane. One Shailesh Yadav informed him that a dead body of unknown male, aged 20 to 25 years, was lying near *Washala Phata* on the Nashik-Mumbai, lane. The informant along with his superiors and other police personnel went to the spot. Said deceased appeared to have been murdered by strangulation coiling a string around his neck. The informant then filed an FIR leading to registration of aforesaid C.R. No.107 of 2023. On the same day, at about about 6:30 hours, one more dead body of an unknown male was found within the vicinity of village Kasara, on Mumbai-Agra highway, on Nashik-Mumbai lane at a distance of 600 meters from brake fail point.

4) Investigation revealed that the unknown male found dead at *Washala Phata* was Sufiyan Ghone and the unknown male found dead at the break fail point was Sahil Pathan. Both the deceased were resident of village Pathare, taluka Rahata.

5) A-5 Dipali Pawar residing at Javalke, taluka Rahata. Sufiyan Ghone was stalking A-5 by calling her on mobile phone and through Instagram. The A-5 was annoyed and angry on that account. Therefore, on 18.06.2023 A-5 called Sufiyan at Shirdi bus stop. The other accused namely A1 - Manoj @ Manya Shivappa Nashi, A2 - Prashant @ Prashya Ambadas Khalule, present Applicant (A-3), A4 - Firoz @ Batlya-Fardin Dildar Pathan, A6 - Santosh Kailas Pawar, A7 - Somnath @ Somya Raghunath

Shinde and A8 - Ankush Thakur were present there and they were waiting for the Sufiyan. At about 11.30 a.m., Sufiyan and Sahil arrived at Shirdi bus stop riding on Sufiyan's motorcycle MH-01-DJ 0206 with his friend deceased Sahil Pathan. The accused present at Shirdi bus stop abducted Sufiyan and Sahil in the motor car of A-6 bearing No.MH-17-AJ-2310 and drove them to an agricultural field, situated at Malharwadi, Post Kakadi, Taluka Rahata. Said land was in possession of A-5. There, all the Accused Nos.1 to 8 assaulted Sufiyan by means of sticks and bambu, caused him grievous injury leading to his death. The A-1 with the help of A-2 strangulated Sahil to death. Further, A-1 and A-2 carried their dead bodies and disposed them at the aforesaid places where the same were found to the police. The accused persons also caused disappearance of evidence, i.e., their clothes, mobile phones of the deceased etc. As a result, charge-sheet came to be filed against all the accused.

6) The Applicant was arrested on dated 25.08.2023. After filing of charge-sheet Applicant applied for bail before the trial Court but his prayer for bail came to be rejected by the trial Court *vide* Order dated 03.12.2024.

7) Mr. Deshmukh, learned Counsel for the Applicant submitted that Digambar Mahendra More is brother of A-5. Till recording his statement on 26th August 2023 and wife of deceased Sufiyan, no witness had alleged that Sufiyan was following A-5 as above and annoying her. Moreover, said evidence is hearsay in nature. It cannot serve the motive to

commit the crime. The alleged cell number attributed to the Applicant does not belong to him. Except A-2, the other accused persons and both the deceased were residing within *Rahata* Taluka. Therefore, the CDRs of their mobile phone numbers are not conclusive to infer that the Applicant was involved in the murders. The recovery of the clothes of the Applicant and one wooden rod is also not helpful in the case as no human blood was found on those articles. In the facts, the recovery of the bike of the deceased at the instance of co-accused is suspicious. No witness was shown the CCTV footage to establish the identity of the Applicant and his presence at Shirdi Bus Stop. Therefore, there is no *prima facie* case against the Applicant. In the backdrop, the Applicant may be released on bail.

8) Ms. Ganapathy, the learned APP, on the other hand, submitted that till 31.07.2023, the identity of both the deceased was not established. Their identity could be revealed only when a Mahindra four wheelers' key seized from the spot was verified from the car company and it confirmed the ownership of that vehicle. Meanwhile, Instagram account information and CDRs of the mobile phones of all the concerned were obtained which confirmed that Sufiyan used to contact with A-5 against her desire. Therefore, Sufiyan was called at Shirdi bus stop by A-5. After abducting Sufiyan and Sahil Pathan from Shirdi bus stop, the two were done to death. There was no reason for the accused persons to assemble at the Shirdi bus stop.

The learned APP submitted that, after committing the murder,

the A-1 and A-2 disposed of the dead bodies at the longer place as noted above. Further, A-1 and A-2 went to Kalyan. A-1 then met with Balu Shinde and confessed the crime. These facts are supported by the mobile phone location of A-1.

The mobile phone number which the Applicant was using was in the name of his father Prakash Mudliyar who had expired a year before. The Applicant has not explained as to why he was using that number. All this clearly show that the Applicant was involved in the crime since beginning. This is fortified by the recovery of the clothes and weapon of the offence at the instance of the Applicant as well as the recovery of the motorcycle of Sufiyan at the instance of A-4 Firoz which A-4 and the present Applicant had kept at garage of witness Siddharth Shivprasad Murge. Therefore, bail may be refused.

9) I have considered these submission. Mainly the Applicant has been shown involved in this crime on the basis of CDR of the mobile phone allegedly used by him at the time of the incident. Considering the relevant CDRs of the accused persons, the deceased and the CCTV footage, it appears that, between 11:00 a.m. to 12:45 p.m. of 18.06.2023, the accused were present at Shirdi bus stand and in the vicinity. During this time the deceased and Sahil were passing from there on a motorcycle. As per the prosecution case, A-5 had called the deceased there. However, no specific material could be pointed out by the learned APP in this regard. It is the case of prosecution that, at Shirdi bus stand, both the deceased were

forcibly made to sit in the Maruti Ertiga Car of A-6. But this aspect was not captured in the CCTV footage. Further, they took them in the said field which was in the occupation of A-5. There, Sufiyan Ghone was assaulted by means of wooden sticks and bambu and Sahil Pathan was strangulated to death. However, there is no eye witness to these circumstances. Both the deceased and the accused persons were residing within limits of Rahata taluka.

10) As per the statement of Digambar @ Bhushan @ Bhau Mahendra More-Patil recorded on 26.08.2023, he had seen a news item on YouTube channel that A-1 and his three friends had killed the two muslim persons and said accused were taken into custody by Kasara police. He stated that said fact was also told him by people. However, what investigation Kasara police did since 25.06.2023, no light is thrown on that aspect by the prosecution.

11) In this background, it is a question of trial as to whether the Applicant was involved in the crime or not. The Applicant is behind bars for almost 2 years and 6 months. He is permanent resident of given address and not like to abscond. There are no antecedents against the Applicant. In view thereof, I am inclined to allow the Application and pass following Order.

:: ORDER ::

- (a) The Applicant - Kunal @ Anna Prakash Mudaliyar shall be released on bail in connection with C.R. No.107 of 2023 registered with Kasara Police Station, Thane (Rural) on his

furnishing P.R. bond in the sum of Rs.1,00,000/- with one or more sureties in the like amount.

- (b) The Applicant shall attend before the trial Court on each and every date unless exempted by trial Court, for reasons to be recorded in writing.
- (c) The Applicant shall attend Kasara Police Station, Thane (Rural) on 1st Monday of each calendar month between 12:00 p.m. to 04:00 p.m. till conclusion of the trial.
- (d) The Applicant shall not tamper with the prosecution evidence and shall not directly or indirectly influence upon the prosecution witnesses to prevent them from deposing against him.
- (e) After his release from jail, the Applicant shall provide his contact number and detailed residential address to the trial Court and the police, as to where he would stay till the trial in the said case is over.
- (f) The Applicant shall not change his residential address and contact number without permission of the trial Court concerned.
- (g) If the Applicant disobeyed any of the above conditions, the bail granted herein shall stand cancelled without further reference to this Court or the trial Court.

12) With above observations, Bail Application is disposed of.

13) It is made clear that, the observations made in this Application are *prima facie* in nature and shall not be construed as an expression of opinion on merits. The trial Court to decide the said Sessions case on its own merits.

(SHYAM C. CHANDAK, J.)