

Akash

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO.2784 OF 2025

Sunijer Nibare Verma

...Applicant

Versus

State of Maharashtra & Anr.

...Respondents

Mr. R. R. Tripathi, for the Applicant.

Ms. R. V. Newton, APP for the Respondent - State.

CORAM: R. M. JOSHI, J.

DATED: 17th MARCH, 2026.

PC:-

1. By this application, the applicant seeks bail in connection with C.R. No.887 of 2023 registered with Narpoli Police Station, District Thane, for the offences punishable under Sections 302, 307, 452 read with Section 34 of the Indian Penal Code, 1860 (for short "**IPC**").

2. The short case of the prosecution is that, on 19th October 2023, the deceased - lady sustained burn injuries. She was taken to hospital. Initially she gave statement to the Doctor with regard to unknown person - thief having entered the house and set her on fire. Later on statement came to be recorded naming present applicant and co-accused to be the persons who had entered the

house and set her the place. On the basis of the said statement offence came to be registered. During the course of the investigation the statement of witnesses were recorded who had seen the present applicant entering the house/area of the residence of the deceased. Similarly, from the spot a button of shirt was seized which was found to be the button of the shirt of the accused. This got further support from the CCTV footage indicating that the accused wore the said shirt before the occurrence of the incident and the shirt came to be seized at the instance of the brother of the accused. In this backdrop the charge-sheet came to be filed against him.

3. Learned Counsel appearing for the applicant submits that there are inconsistencies in the statement of the deceased recorded at the time of her admission in the hospital and the last statement recorded before two hours of her death. He submitted that in view of the inconsistency in the said statement i.e. firstly, the deceased states about unknown thief entering the house and committing the act and later on implicating the present applicant and co-accused are so inconsistent that they cannot be relied upon. It is his further submission that the statement of the witness is also inconsistent to

the said story as he has seen only one person at the relevant time entering and taking exit of the premises. According to him, the co-accused has been enlarged on bail on 14th October 2024 and considering the observations made by this Court in the said order passed in Bail Application No.3685 of 2024, applicant deserves bail on parity.

4. Learned APP, opposes the application by submitting that there is evidence on record to indicate the involvement of the applicant in this crime. It is her submission that the applicant was said to be having an affair with the deceased and in such circumstance, it is quite obvious that initially she does not disclose the name of the applicant to be the person who had entered the house. It is argued that apart from the statement of the deceased which is duly endorsed by the Medical Officer certifying her conscious state of mind while recording the statement, there is further evidence in the form of recovery of the button of the shirt of the accused which clearly indicates his involvement in the crime. Learned APP, drew the attention to the order granting bail to the co-accused indicating that the bail has been essentially granted on

the ground that involvement of one person is seen in the crime and the co-accused had no motive to commit the acting question.

5. At the outset, this Court would like to take note of the order dated 14th October 2024 passed by this Court of the co-ordinate Bench of this Court in Bail Application No.3685 of 2024 (CORAM :- Manish Pitale, J.) granting bail to the co-accused. It is relevant to reproduce herein below Paragraph Nos. 6(f) and (g) of the said order, which reads thus :-

"(f) The thrust of the case of the Investigating Authority appears to be that the co-accused person was having an affair with the victim, although she was a married woman, but, she had broken up her relationship with the co-accused person. On that basis, the co-accused person may have had a feeling of animosity to commit the said act of burning the victim. But, the material on record, prima facie falls short of establishing a link between the applicant and the incident in question. Even if the entire material is accepted, it is difficulty to understand that as to what motive the applicant could have to participate in such an act. The mere fact that the applicant belongs to the same village as the co-accused person, cannot be a ground to claim that a prima facie case is made out against the applicant.

(g) In this backdrop, the endorsement made in the record of Lotus Hospital on 19th October 2023 at 1:30 p.m. assumes significance, wherein it is recorded that the victim suffered burn injuries due to assault by "unknown person". This appears to be inline with what is recorded in the document issued by Kasturba Hospital on 31st October 2023, after the victim expired, wherein it is recorded that the victim suffered homicidal burns by "unknown person-thief". The statement of the neighbour about she having seen a person wearing particular clothes entering the apartment/complex where the victim resided, also refers to a single person. This material prima facie indicates that perhaps only one person could be said to be responsible for the aforesaid act. The entire motive and animosity being attributed to the co-accused, this is another factor that inures to the benefit of the applicant."

6. The above observations clearly indicates that the Court was convinced with the fact that this could be the case of involvement of one accused in commission of the crime. It was further held that the co-accused is not the one who was having any motive to commit the crime in question, hence only for that reason he was enlarged on bail. Now question arises as to whether the applicant's case could be placed on the same footing in order to apply parity.

7. Insofar as the present applicant is concerned, if it is the case of the prosecution that there was affair of applicant with the deceased who was a married women, her non disclosure of the name of person came to her house is obvious. However, her statement implicating the present applicant is concerned the said statement is duly endorsed by the Medical Officer certifying her mental and physical condition fit for recording of the statement. Apart from this there is other evidence in the form of the button of the shirt of the accused being found on the spot. It is needless to say that at this stage this Court can not go into the details of the evidence nor is expected to consider the merits of the case such the acceptability of the statements recorded during the investigation. Suffice it to say that on the face of it as there is sufficient evidence to show the involvement of the applicant in the crime which is serious in nature. Considering motive available for applicant coupled with finding of button of his shirt at spot, he can not seek parity with co-accused.

8. Hence, the Bail Application is dismissed.

(R. M. JOSHI, J.)