

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO. 3396 OF 2025

Sagar S/o Rasik Kharwa

...Applicant

Versus

The State of Maharashtra

...Respondent

Mr. Amrish Salunke a/w Mr. Durgesh Pandey a/w Ms. Dipali Patil
a/w Mr. Sunil Kumar Gupta, for the Applicant.

Mr. Ashok S Gawai, APP, for the Respondent - State.

API Rathod and PSI Pravin Kadam, Nagpada Police Station,
Mumbai, are present.

CORAM: R. M. JOSHI, J.

DATED: 23rd MARCH, 2026

PC:-

1. This application for regular bail is filed in connection with Crime No.162/2025 registered with Nagpada Police Station, Mumbai, for the offences punishable under Sections 103(1), 115(2), 352, 351(2), 3(5) of the Bhartiya Nyaya Sanhita, 2023 (For short "BNS Act") and under Sections 4 & 25 of Arms Act, 1959.

2. It is a case of the prosecution that on 11.04.2025 at around 2:00 a.m. an incident occurred in which the informant's son was assaulted by co-accused Vijay and others. There is allegations against present applicant that in the said assault he used fists and kick blows.

3. Learned Counsel for the Applicant submits that considering the role attributed the Applicant in this crime, it cannot be said that the Applicant had any common intention with the other accused persons to kill deceased. According to him it is apparent from the fact that, the Applicant was not having any weapon with him and as such no motive to kill deceased could be assumed against him. It is claimed that Applicant has no criminal history and he is not likely to flee. It is further argues that the Applicant has been arrested on 12.04.2025 and there is no possibility of conclusion of trial in reasonable period of time.

4. Learned APP opposes Application by drawing attention of this Court to the First Information Report and supplementary statement of the informant which according to him indicates that all accused persons came together to the spot and assaulted and killed the deceased. Thus according to him the said fact itself is sufficient to attribute common intention against the Applicant.

5. Learned APP submits that the informant is resident of the area following with the jurisdiction of Malvani Police Station and he apprehends of pressurising of the informant by the Applicant if, released on bail. In response to this submission, Learned Counsel for the Applicant, on instructions, makes statement that the Applicant will not enter into the jurisdiction of Malvani Police Station, Mumbai, till conclusion of Trial.

6. *Prima facie* perusal of the record indicates that there is previous dispute between the parties. It further shows that the co-accused had been to the spot with weapon. However, there is no allegation of the Applicant of carrying any weapon with him to the spot. In the light of this fact, the allegation against him of causing assault on the deceased with fists and kick blows cannot be held sufficient for attributing common intention against him. He has no criminal history. The trial is not likely to be commenced and then concluded within a reasonable period of time. Applicant is not like to flee from justice. Hence, order.

ORDER

- i) Criminal Bail Application stands allowed in connection with Crime No.162/2025 registered with Nagpada Police Station, Mumbai, for the offences punishable under Sections 103(1), 115(2), 352, 351(2), 3(5) of the Bhartiya Nyaya Sanhita, 2023 and under Section 4 & 25 of Arms Act, 1959.
- ii) Applicant be enlarged on bail, on furnishing P. R. Bond of Rs.15,000/- with one surety in the like amount, till the satisfaction of the Trial Court.
- iii) Applicant shall not interfere in the evidence of the prosecution in any manner whatsoever and not to contact informant or any other witness, directly or indirectly.
- iv) Applicant to attend all dates of hearing before the Trial Court unless exempted by passing specific order.

- v) As undertaken voluntarily by the Applicant, he shall not enter the jurisdiction of Malvani Police Station, till conclusion of Trial.
- vi) Any breach of the above condition shall result forthwith in cancellation of bail.

7. The application is allowed in aforesaid terms and is accordingly disposed of.

8. It is clarified that the above observations are *prima facie* in nature and the same would not bind the parties during the trial.

9. All concerned to act upon the authenticated copy of this order.

(R. M. JOSHI, J.)

VDMokal/-