

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

**BAIL APPLICATION NO. 3836 OF 2025**

Akshay Harishchandra Kalan

...Applicant

*Versus*

State of Maharashtra & Anr.

...Respondents

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**Mr. Pankaj Kandhari**, *with Taribun Anwarullha Khan for the Applicant.*

**Ms. Gauri S. Rao**, *APP for the Respondent-State.*

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**CORAM    DR. NEELA GOKHALE, J.**

**DATED:    27<sup>th</sup> FEBRUARY 2026**

**PC:-**

1. By this Application, the Applicant seeks his enlargement on bail in connection with C.R. No. 0251 of 2021 dated 10<sup>th</sup> October 2021 registered with the Nizampura Police Station, Thane City for the offences punishable under Section 302 read with 34 of the Indian Penal Code, 1860 (for short 'IPC').

2. The case of the prosecution, in brief, is that, Co-accused (Accused No.1) is the wife of deceased, Sanjay Pagi. It is

alleged that the Applicant (Accused No.2) and Accused No.1 are close relatives of each other and were in a consensual relationship. According to the prosecution, there used to be frequent quarrels between Accused No.1 and her deceased husband on the ground that the present Applicant was always coming to their house and misbehaving. It is further alleged that these quarrels invariably resulted in assaults on the Accused No.1-Wife under the influence of liquor. It is the prosecution's case that on the day of the incident, the Co-accused called the Applicant to her house, and when her husband was asleep, both the Accused, in furtherance of their common intention, committed the murder of the deceased by means of '*Dupatta*' of Co-accused. A complaint was lodged by the deceased's brother pursuant to which an FIR came to be registered. The Applicant came to be arrested on 12<sup>th</sup> October 2021.

3. The Applicant filed an application seeking bail before the Additional Sessions Judge, Bhiwandi. However, by order

dated 23<sup>rd</sup> June 2025, his bail application came to be rejected. Hence, the Applicant is before this Court for the reliefs as prayed.

4. Mr. Pankaj Kandhari, learned counsel appearing for the Applicant, brings to my attention various statements of witnesses. According to him, none of the witnesses have stated that they have seen the present Applicant in the house save and except, minor daughter, Riya, aged 5 years, who stated that the present Applicant had come to their house that day and she saw her mother and the present Applicant choke the deceased with her mother's dupatta. There are other statements including that of deceased's son, Raj, who was aged 14 years at that time. He has also stated that he heard some noise in his house and he went to check. However, he has not stated of having seen the present Applicant in his house but merely stated that he saw his mother going from one room to another. The nature of evidence in the present case is circumstantial. In any case, the charges are framed and

compliance under Section 294 of the Code of Criminal Procedure, 1973 has been made by the prosecution. However, recording of the evidence has not yet commenced. The Applicant has suffered incarceration for more than four years; the prosecution intends to examine as many as 26 witnesses and the trial is not likely to conclude in a near future. Thus, he prays that Bail Application be allowed.

5. *Per contra*, Ms. Gauri Rao, learned APP representing the State in the matter, submits that the offence is serious. She further submits that the charges are framed and compliance under Section 294 of the Code of Criminal Procedure, 1973 has also been made by the prosecution and the recording of evidence will commence soon. Additionally, she submits that since maximum punishment for the offence is death penalty, incarceration of the Applicant for more than four years cannot be termed as long incarceration. Thus, she resists the Bail Application.

6. Heard learned counsel appearing for the respective parties and perused the record with their assistance.

7. Admittedly, nature of evidence in the present case is circumstantial. In any case, the charges are framed and compliance under Section 294 of the Code of Criminal Procedure, 1973 has been made by the prosecution. However, recording of the evidence has not yet commenced. The Applicant has suffered incarceration for more than four years; the prosecution intends to examine as many as 26 witnesses and the trial is not likely to conclude in a near future.

8. In these circumstances, I am inclined to enlarge the Applicant on bail. It is accordingly ordered as under:-

### **ORDER**

- i) The Applicant be enlarged on bail, on executing PR Bond in the sum of Rs.50,000/- with one or two local sureties in the like amount;

- ii) The Applicant shall attend the Trial Court concerned on each and every date unless exempted by the orders of the Trial Court concerned;
- iii) If the Applicant holds a passport, he shall deposit the same with the Police Station concerned
- iv) The Applicant shall not leave India, without the permission of the Trial Court;
- v) The Applicant shall not tamper or attempt to influence or contact the complainant, witnesses or any person concerned with the case;
- vi) The Applicant shall inform his latest place of residence and contact number immediately after being released and / or change of residence or mobile details, if any, from time to time to the Court seized of the matter and to the Investigating Officer of the Police Station concerned;

vii) The Applicant to co-operate with the conduct of the trial;

viii) Any infraction of the aforesaid conditions shall entail cancellation of bail.

9. The Bail Application is allowed in the above terms and is accordingly disposed of.

10. It is made clear that the observations made herein are *prima facie* and are confined to this Application and the learned Trial Judge to decide the case on its own merits, uninfluenced by the observations made herein.

(DR. NEELA GOKHALE, J)

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