

Shivgan

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO. 4202 OF 2025

Vaijanath @ Shivam Maruti Sawale	...Applicant
<i>Versus</i>	
State of Maharashtra	...Respondents

Ms. Manisha Jadhav, i/by Kamble Sayabanna K, for the Applicant.
Mr. A. R. Kapadnis, APP for the Respondent-State.
Mr. Karande, API attached to Kashimira Police Station, present.

CORAM: R. M. JOSHI, J.
DATED: 20th APRIL, 2026.

PC:-

1. The Applicant seeks bail in connection with Crime No.933 of 2020 dated 5th November 2020 registered with Waliv Police Station, Palghar for the offences punishable under Sections 307, 323, 506 read with 34 of the Indian Penal Code, 1860 ('IPC').

2. In short, it is the case of the prosecution that the Applicant and his wife (Deceased) used to quarrel frequently. In similar manner on 4th November 2020, the neighbours heard quarrels between them. At about 12 noon, wife of the Applicant in flames came out of the house. The Applicant followed her with quilt and tried to extinguish flames. It is stated in the First Information Report ('FIR') that the Applicant has failed to take the then Injured to the Hospital. She was taken to the Hospital by her sister. She

died on 12th November 2020. The allegation against the Applicant as well as his mother is of setting the deceased on fire.

3. Learned counsel for the Applicant submits that the Applicant is in jail for a period of 6 years now without trial. It is her submission that the evidence of the prosecution is not sufficient to bring home the guilt of the Applicant. In this regard, reference is made to the statements of the neighbours, who categorically stated about the absence of mother-in-law of the Applicant at the time of incident. It is thus, her submission that the statements of the deceased as well her sister regarding both the Applicant and the Co-accused having set her on fire, is not acceptable. It is also submitted that though the deceased died after about 8 days of the occurrence of the incident, her statement is not recorded either by the Police or the Magistrate. This according to her, creates a doubt with regard to the case of the prosecution. In any case, it is her submission that since for a period of six years, the trial has not commenced, the Applicant deserves bail.

4. The learned APP opposes the Application firstly, by pointing out seriousness of the crime. He submits that non-recording of the dying declaration by itself will not become ground for grant of bail. To support his submission, he places reliance on the statements of the sister of the deceased as well as neighbours. It is submitted that even at the time of admission of the deceased in the Hospital, statement was made to the doctor with regard to she being set on fire by two persons. It is argued that the Investigating Officer has made correspondence with the Authorities for recording the

statement of the deceased, however, since, it was not recorded by them, such a statement is not there in the charge-sheet.

5. Even if this Court accepts the contention of the learned APP that there could be oral dying declaration not formally recorded, question arises in this case is, as to whether the said dying declaration is consistent with the case sought to be made by the prosecution. The neighbours categorically state about the absence of mother-in-law at the spot of the incident. In such circumstances, it creates doubt as to whether statement of the deceased made to the neighbours with regard to the Applicant and his mother having set her ablaze, becomes doubtful. In any case, it was open for the Investigating Agency to record statement of the deceased since she was under treatment for a period of 8 days. Non-recording of the said statement would definitely create some doubt with regard to the case of the prosecution. Moreover, statements of neighbours indicate that Applicant extinguished flames by using quilt, this is contrary to intention of person to kill someone by setting him/her ablaze.

6. Apart from this, the Applicant is in jail for a period of six years without trial. There is no chance of trial being commenced and concluded within reasonable period of time. Moreover, no allegation is made against the Co-accused, who is lady. For 6 years, she is not arrested by the Police.

7. In view of the above, the Application stands allowed and following order is passed:

ORDER

(i) The Bail Application stands allowed in connection with Crime No.933 of 2020 dated 5th November 2020 registered with Waliv Police Station, Palghar;

(ii) The Applicant be released on bail on furnishing P. R. Bond of Rs.15,000/- with one surety in the like amount to the satisfaction of the Trial Court;

(iii) The Applicant to attend all the dates of hearing before the Trial Court except exempted by a specific order by the Trial Court;

8. The Bail Application stands disposed of.

(R. M. JOSHI, J.)

SHAMBHAVI
NILESH
SHIVGAN
Digitally
signed by
SHAMBHAVI
NILESH
SHIVGAN
Date:
2026.04.21
17:45:49
+0530