

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO. 2396 OF 2025 (Sr.No.25)

Vishal Sampat Sonawane @ Kalu	...Applicant
<i>Versus</i>	
The State of Maharashtra	...Respondent

CRIMINAL BAIL APPLICATION NO. 4788 OF 2025 (Sr.No.40)

Akram Shabbir Shaikh @ Guddu	...Applicant
<i>Versus</i>	
The State of Maharashtra	...Respondent

Mr. Santosh M. Deshpande, for the Applicants
in B.A. No. 2396/2025 and BA No. 4788/2025.

Mr. R. M.Peth, APP, for the Respondent – State
in B.A. No. 2396/2025.

Mr. Ashok S. Gawai, APP, for the Respondent – State
in B.A. No. 4788/2025.

Mr. Mughal Sayeed i/by Mr. Himanshu Jha, for the Intervenor.

CORAM: R. M. JOSHI, J.

DATED: 6th MAY, 2026

PC:-

COMMON ORDER

1. Learned Counsel for the Applicants records 'No Objection' for hearing learned Counsel for the Intervenor.
2. In view of the same, no separate Application is required to be filed.

3. Both these applications are arising out of the same crime and since similar question of facts of law are involved therein, they are heard and decided together, by consent of both the sides.

4. The Applicants Vishal Sonavane and Akram Shaikh @ Guddu seek their enlargement on bail in connection with Crime No. 1134 of 2024 registered with Samta Nagar Police Station for the offences punishable under section 302, 120(B), 201, 142, 143, 144, 147, 148, 149, of IPC and under section 4, 25 of Arms Act read with section 37(1) (A), 135 of Bombay Police Act.

5. It is the case of the prosecution that on 25.07.2022 the complainant approached Samta Nagar Police Station and lodged a First Information Report alleging that on the previous night i.e. 24.07.2022, the deceased Deepak Rajbhar had gone along with his friends for a birthday celebration at Mira Road. The celebration allegedly continued till late night hours. According to the complainant, after the gathering dispersed, the deceased did not return home. It is the prosecution case that on the morning of 25.07.2022, the complainant received information from local persons that his brother Deepak Rajbhar was lying in an injured condition near Hanuman Mandir, Shivaji Maidan, Gavdevi Road, Poisar, Kandivali (East), Mumbai. The complainant immediately rushed to the spot and allegedly found the deceased lying in a pool of blood with multiple grievous injuries caused by sharp-edged weapons. The deceased was thereafter shifted to the hospital where he was declared dead before admission. On the basis of the complaint lodged on 25.07.2022, the aforesaid crime

came to be registered and investigation commenced. During the course of investigation, the Investigating Agency conducted spot panchanama, inquest panchanama and *post-mortem* examination. Statements of witnesses were recorded, so also CCTV footage was collected from the vicinity of the place of occurrence. The investigation further revealed that the offence was committed pursuant to a criminal conspiracy hatched by the accused persons acting in union with each other and forming an unlawful assembly armed with deadly weapons and the present applicants involvement surfaced during the course of investigation on the basis of CCTV footage, statements of witnesses and other material collected. Upon completion of the investigation, chargesheet came to be filed.

6. Learned Counsel for the Applicants at the outset submit that the co-accused has been granted bail by this Court and hence on parity Applicants are entitle to be enlarged on bail. On merit, it is his submission that the prosecution has recorded statement of witnesses belatedly without any explanation for the same. In this regard, reference is made to the statement of Sanjiv, Aryan and Rajkumar which were recorded on 10.08.2022, 20.09.2022 and 09.08.2023. It is his submission that the incident has occurred on 24th July 2022, there would be no justification for recording all these statements of the witnesses belatedly on the respective dates. It is argued that the delay in recording the statements indicate that this is a case of false implication. He further argued that there is no recovery of iron pipe from the Applicant Vishal nor the wooden sticks allegedly used in the crime were seized at the

instance of the Applicant. According to him, it is a case of long incarceration as Applicants were arrested in July 2022 and almost a period of four years they are in jail. It is also claimed that there is no possibility of commencement of trial in a short period of time and as such they are entitled for bail.

7. Learned APP opposed the Application firstly pointing out that, here in this case, the allegations against the accused is that they were member of an unlawful assembly and committed murder of brother of the informant. It is further argued that once the act is done by the member of an unlawful assembly, every member thereof is vicariously liable for acts of other accused. It is contended that, there is specific overt acts alleged against the Applicant in commission of the crime. He drew attention of the Court to the *Post Mortem* Report indicating that as many as 19 injuries were caused on person the deceased which includes CLW, stabbed wounds, abrasion, etc.. It is submitted that the statements of eye witnesses get support from the CCTV footage collected during the course of investigation. He drew attention of the Court to the statement of witnesses who have identified present Applicant to be one of the assailants. It is contended that the offence in question is punishable with life imprisonment and as such Applicants are not entitled for bail on the ground that they are in jail for about four years. He placed reliance on the following judgments/orders in :-

- [1] Bail Application No. 92 of 2025 dated 9th April, 2025
- [2] Bail Application No. 299 of 2024 dated 6th May, 2025

[3] Bail Application No. 5066 of 2024 dated 10th September, 2025

8. *Prima facie* perusal of the record indicates that an incident had occurred on 14th July 2022 in which dispute occurred in between deceased and accused persons over an issue of road rage . The informant received an information with regard to his brother Deepak being assaulted. When he went to the spot, he saw deceased having number of injuries on his person and was lying in pool of blood. The *post mortem* report indicates about 19 injuries on the person of the deceased which includes stabbed injuries, CLW, abrasion, incise wounds, contusion, etc. The allegation against the Applicant and co-accused is that they assaulted deceased to death. *Prima facie* evidence on record indicates about this being homicidal death.

9. Perusal of the record, on the face of it indicates about the incident being witnessed by the persons in the vicinity. No doubt the statements of those witnesses are recorded belatedly however, that is not the only evidence to connect present Applicant with the crime. Here in this case apart from the statement of eye witnesses, there is an electronic evidence in the form of CCTV footage of the actual assault being caused by the Applicant and co-accused. The statement of two witnesses who have identified the Applicant to be assailant indicate their overt act in the assault. Thus only for the reason in the statements of eye witnesses were recorded after some time, it does not become ground for enlargement of the Applicants on bail.

10. *Prima facie* perusal of an electronic evidence collected during the course of the investigation indicates that five persons came together and committed assault on Deepak in which he eventually died. Thus this Court finds substance in the contention of the learned APP that serious overt act in question has been committed by unlawful assembly, each member thereof would be vicariously liable for the acts of others too.

11. As far as present Applicants are concerned, there is material evidence on record in the form of CCTV footage indicates the actually assaulting the deceased with iron pipe and bamboo stick. Thus, the involvement of this Applicant in the crime cannot be denied. The offence is punishable with imprisonment for life. In such circumstances Applicants are not entitled for bail. Hence, following order :-

ORDER

- [i] Application stands dismissed.
- [ii] Trial Court is directed to expedite the trial.

(R. M. JOSHI, J.)

VDMokal/-