

(2026) 01 BOM CK 1355

In the Bombay High Court, Aurangabad Bench

Case No : Bail Application No. 2236 Of 2025

Amol @ Pappu Popat Andhale

APPELLANT

Vs

State Of Maharashtra

RESPONDENT

Date of Decision : 19-01-2026

Acts Referred:

Indian Penal Code, 1860 — Section 34, 302, 307
Code of Criminal Procedure, 1973 — Section 438, 439

Citation : (2026) 01 BOM CK 1355

Hon'ble Judges : Sachin S. Deshmukh, J

Bench : Single Bench

Advocate : Rajendrraa S. Deshmukkh, Meenal S. Deshmukh, Vishal A. Chavan, C. V. Bhadane

Final Decision : Rejected

Judgement

Sachin S. Deshmukh, J

1. The applicant has approached this Court seeking regular bail in connection with FIR dated 10.12.2023 bearing Crime No. 392 of 2023 registered with Ramanand Police Station, Dist. Jalgaon for the offences punishable under Sections 302, 307 read with 34 of the Indian Penal Code (hereinafter "IPC" for short).

2. The prosecution case is that the incident occurred on 10.12.2023 at approximately 4:30 pm at Vanjari Tekdi, Samtanga, Jalgaon. The informant, a vegetable vendor, resides with his parents and two brothers, Kailas and Arun. The informant's family had a history of disputes with accused Dodhya @ Pintya Shirsath and his associates. These tensions stemmed from Arun's scheduled marriage to Rani Bhaskar Shirshat, niece of the accused Dodhya. Consequently, Dodhya had previously threatened to kill Arun, if he proceeded with the marriage.

3. On the date of incident i.e. on 10.12.2023 at approximately 12:00 pm, a quarrel broke out between the informant's cousin, Ganesh Sonawane, and three

individuals namely Nitin Sonawane, Akash Chavan, and Tushal Kalal. On the same day at around 4:30 pm, while the informant was sitting near Dr. Ambedkar Chowk Nala, his brother Arun and their friend Ashish Sonawane approached him. They informed informant that Sonu Adhale had asked them to Vanjari Tekdi to resolve the dispute occurred earlier that morning.

4. It is further alleged that shortly thereafter, the informant heard shouting coming from the direction of Vanjari Tekdi and rushed to the scene. Upon arrival, the informant saw accused persons, including the present applicant, assaulting Ashish Sonawane with choppers. The informant's relatives intervened, managed to rescue Ashish and immediately shifted him to the hospital. The assailants then allegedly turned their attention toward the informant's brother, Arun, attacking him with choppers and inflicting multiple injuries to his neck, abdomen, waist, and face. When the informant attempted to intervene, the accused Sonu and Dodhya, allegedly assaulted him with a chopper, injuring his right hand. Arun fell unconscious at the scene and was subsequently shifted to the Civil Hospital, Jalgaon, where he was declared dead. Accordingly, the FIR came to be lodged on 10.12.2023 at 22.39 hours.

5. The learned Senior Counsel for the applicant submits that there is no specific overt act attributed to the applicant in the FIR. The applicant neither carried a lethal weapon nor inflicted any fatal injuries on the deceased Arun. Mere presence at the scene does not establish a shared common object for murder.

6. The learned Senior Counsel further submits that since the other accused persons namely Pravin @ Dodhya Premraj Sirsale and Ashok Mahadu Rathod who are similarly situated, have been enlarged on bail by this Court, same would entail the applicant to claim the bail on the ground of parity. The investigation is complete and the charge-sheet is also filed. As such, further incarceration of the applicant is not warranted. Accordingly, it is prayed that the application be allowed.

7. The learned APP opposed the application, submitting that the incident on 10.12.2023 was a calculated ambush rather than a sudden provocation. The accused lured the victims to Vanjari Tekdi under the pretext of a settlement, demonstrating a clear motive and common object to commit murder. The applicant's presence at the scene, as identified in the FIR, confirms his active role in the offense.

8. The learned APP further submitted that the prosecution has cited material witnesses. The applicant was part of a group armed with lethal weapons (choppers) and knife that his presence facilitated the necessary intimidation and support for the co-accused to execute the crime. Consequently, the applicant cannot claim parity with co-accused already released on bail, as the role of each participant must be assessed independently. Furthermore, there are criminal antecedents against the present applicant. As such, prayed for the rejection of the application.

9. Having heard the learned counsel for applicant and learned APP for State, the applicant is facing the charge of murder which is punishable with death sentence or imprisonment for life. The Hon'ble Apex Court in case of Kalyan Chandra Sarkar and Ors. Vs. Rajesh Ranjan and Ors. [(2004)7 SCC 528], while laying down the guidelines for grant or refusal of bail in serious offences like murder, has observed as under:

"11. The law in regard to grant or refusal of bail is very well settled. The court granting bail should exercise its discretion in a judicious manner and not as a matter of course. Though at the stage of granting bail a detailed examination of evidence and elaborate documentation of the merit of the case need not be undertaken, there is a need to indicate in such orders reasons for prima facie concluding why bail was being granted particularly where the accused is charged of having committed a serious offence. Any order devoid of such reasons would suffer from non-application of mind. It is also necessary for the court granting bail to consider among other circumstances, the following factors also before granting bail; they are:

(a) The nature of accusation and the severity of punishment in case of conviction and the nature of supporting evidence.

(b) Reasonable apprehension of tampering with the witness or apprehension of threat to the complainant.

(c) Prima facie satisfaction of the court in support of the charge. (See Ram Govind Upadhyay v. Sudarshan Singh and Puran v. Rambilas.)

10. The Hon'ble Apex Court in the case of Mahipal Vs. Rajesh Kumar and Ors. (AIR 2020 SC 670) has laid down the principle that bail can be refused when the material produced by prosecution establishes a clear prima facie case. The Court should not conduct a mini-trial; it should only examine whether the available evidence links the accused to the alleged offense.

11. Equally, the Hon'ble Apex Court in case of State of UP through CBI Vs. Amaramani Tripathi [(2005)8 SCC 21], has held that the Court must evaluate the prima facie evidence showing the applicant's involvement. If such evidence is credible and supports the accusations, bail may be refused.

12. Similarly, the Hon'ble Apex Court in case of Pralhad Singh Bhati Vs. NCT, Delhi [(2001)4 SCC 280], held that on satisfaction of prima facie evidence establishing the guilt of the accused, the bail can be denied.

13. Similarly, the Hon'ble Apex Court in case of Ram Govind Upadhyay Vs. Sudarshan Singh [(2002)3 SCC 598], has held that a judicial discretion in granting bail must not be exercised whimsically, especially in heinous offences.

14. The Hon'ble Apex Court in case of Prasanta Kumar Sarkar Vs. Ashis Chatterjee [(2010)14 SCC 496], has held that the mechanical grant of bail reflects non-application of mind, and outlined eight crucial factors to be

considered, including reasonable ground for belief in guilt, nature of evidence and possibility of justice being thwarted.

15. In *Neeru Yadav Vs. State of UP* [(2016)15 SCC 422], the Hon'ble Apex Court has held that the Courts must not casually ignore the 'criminal antecedents' of the accused and must remain vigilant in heinous offences. The same principles were again re-affirmed by the Hon'ble Apex Court in case of *Anil Kumar Yadav Vs. State (NCT of Delhi)* [(2018)12 SCC 129].

16. At this juncture, it would be apt to reproduce the observations rendered by the Hon'ble Apex Court in the case of *Neeru Yadav* (supra) :-

"13. We will be failing in our duty if we do not take note of the concept of liberty and its curtailment by law. It is an established fact that a crime though committed against an individual, in all cases it does not retain an individual character. It, on occasions and in certain offences, accentuates and causes harm to the society. The victim may be an individual, but in the ultimate eventuate, it is the society which is the victim. A crime, as is understood, creates a dent in the law and order situation. In a civilised society, a crime disturbs orderliness. It affects the peaceful life of the society. An individual can enjoy his liberty which is definitely of paramount value but he cannot be a law unto himself. He cannot cause harm to others. He cannot be a nuisance to the collective. He cannot be a terror to the society; and that is why Edmund Burke, the great English thinker, almost two centuries and a decade back eloquently spoke thus:-

"Men are qualified for civil liberty, in exact proportion to their disposition to put moral chains upon their own appetites; in proportion as their love to justice is above their rapacity; in proportion as their soundness and sobriety of understanding is above their vanity and presumption; in proportion as they are more disposed to listen to the counsel of the wise and good, in preference to the flattery of knaves. Society cannot exist unless a controlling power upon will and appetite be placed somewhere and the less of it there is within, the more there must be without. It is ordained in the eternal constitution of things that men of in-temperate minds cannot be free. Their passions forge their fetters

14. E. Barrett Prettyman, a retired Chief Judge of US Court of Appeals had to state thus:-

"In an ordered society of mankind there is no such thing as unrestricted liberty, either of nations or of individuals. Liberty itself is the product of restraints; it is inherently a composite of restraints; it dies when restraints are withdrawn. Freedom, I say, is not an absence of restraints; it is a composite of restraints. There is no liberty without order. There is no order without systematised restraint. Restraints are the substance without which liberty does not exist. They are the essence of liberty. The great problem of the democratic process is not to strip men of restraints merely because they are restraints. The great problem is to design a system of restraints which will nurture the maximum development of man's capabilities, not in a massive globe of faceless animations

but as a perfect realisation, of each separate human mind, soul and body; not in mute, motionless meditation but in flashing, thrashing activity.

15. This being the position of law, it is clear as cloudless sky that the High Court has totally ignored the criminal antecedents of the accused. What has weighed with the High Court is the doctrine of parity. A history-sheeter involved in the nature of crimes which we have reproduced hereinabove, are not minor offences so that he is not to be retained in custody, but the crimes are of heinous nature and 9 Alfred Howard, *The Beauties of Burke* (T. Davison, London) 109 10 Speech at Law Day Observances (Pentagon, 1962) as quoted in Case and Comment, Mar-Apr 1963 such crimes, by no stretch of imagination, can be regarded as jejune. Such cases do create a thunder and lightening having the effect potentiality of torrential rain in an analytical mind. The law expects the judiciary to be alert while admitting these kind of accused persons to be at large and, therefore, the emphasis is on exercise of discretion judiciously and not in a whimsical manner.

16. In this regard, we may profitably reproduce a few significant lines from Benjamin Disraeli:-

"I repeat..... that all power is a trust-that we are accountable for its exercise-that, from the people and for the people, all springs, and all must exist."

17. In the present case, the prosecution has prima facie produced overwhelming evidence. The injured witness, Ashish, who was present when the incident occurred, has specifically narrated each and every event that took place at the scene. Witness Ashish has categorically stated that the accused persons initially called them over and slapped, followed by an assault on the deceased with a chopper. Thereafter, the accused persons, including the present applicant, further assaulted the victims with a chopper / knife, inflicting in as much as 18 injuries.

18. Perusal of the PM Report prima facie indicates and establishes multiple corresponding injuries to the victim resulting in death. Furthermore, the motive is prima facie evident from the statement of Dodya, who held a stiff opposition to the marriage of the deceased Arun with his niece scheduled on 26.11.2023, whereas the incident in question occurred on 10.12.2023. The incident, which took place approximately at 4:00 pm broad-day light, has been witnessed by the injured witness Ashish, who categorically narrated the events resulting in the brutal murder of the deceased. The brutality of the act is underscored by the severity and number of injuries, totaling 18 in all.

19. Nevertheless, the injured witness Ashish was also seriously assaulted during the said incident. Apart from the aforestated peculiar aspects, the view of the failure on the part of the applicant to disclose pending antecedents. The Hon'ble Apex Court in case of *Munnesh Vs. State of Uttar Pradesh* [(2025) SC 605] has observed as under :-

"11. However, before parting, we consider it necessary to dwell on one aspect. A growing trend is being noticed of individuals, seeking from this Court the

concession of bail or concession of protection from arrest, not disclosing in the special leave petitions their involvement in other criminal cases. In such cases where involvement is not disclosed, on a prima facie satisfaction that long incarceration without reasonable progress in the trial is invading the right to life of the accused or that the offences for which the FIR has been registered are not too serious, notices are issued and only thereafter, information of criminal antecedents is being provided in the counter affidavits filed by the respective respondents-States, as in the present case. The result is that this Court, being the apex court of the country, is being taken for a ride. This Court has shown leniency in the past but we think it is time that such state of affairs is not allowed to continue further.

12. We, accordingly, direct that henceforth each individual who approaches this Court with a Special Leave Petition (Criminal) challenging orders passed by the high courts/sessions courts declining prayers under Sections 438/439 of the Code of Criminal Procedure, 1973 or under Sections 482/483, Bharatiya Nagrik Suraksha Sanhita shall mandatorily disclose in the 'SYNOPSIS' that either he is a man of clean antecedents or if he has knowledge of his involvement in any criminal case, he shall clearly indicate the same together with the stage that the proceedings, arising out of such case, have reached. Should the disclosure be found to be incorrect subsequently, that itself could be considered as a ground for dismissal of the special leave petition."

20. As has been held by the Hon'ble Apex Court in the case of Munnesh (supra), it was obligatory for the applicant to disclose the criminal antecedents, while presenting the bail application and the same is not complied with. The failure to do so constitutes an additional circumstance against the applicant, justifying the rejection of the application.

21. The learned Senior Counsel placed reliance on orders of this Court; however, the same do not lend any support to the applicant in light of the prima facie motive of the applicant in the commission of the offence, wherein one individual lost his life and others were seriously injured.

22. The learned Senior Counsel submits that the co-accused in the offence have enlarged on bail by this Court and hence, the applicant is also entitled for bail on the ground of parity. The Criminal Jurisprudence treats the doctrine of parity as a rule of "desirability" rather than a "straightjacket formula" or "absolute right". Moreover, the parity is a secondary consideration that only becomes relevant once the court determines the applicant is on the same footing as the released co-accused. It cannot be the sole ground for bail, especially in serious offences like murder.

23. The Hon'ble Apex Court in case of State of Bihar Vs. Amit Kumar [(2017)13 SCC 751], has held that delay especially in cases involving serious offences, cannot by itself be a ground for bail. In the present case, the trial is progressing and further the prosecution has demonstrated the efforts to conclude the trial.

Considering the seriousness of the offences involved, the overwhelming material weighs against the applicant.

24. The Hon'ble Apex Court has consistently reiterated that while considering bail application/s in serious offences, such as pre-meditated murder, the Court must treat vital considerations like the nature of the charge and the nature of the evidence as paramount.

25. To secure bail, the applicant must establish that the evidence collected and intended to be presented by the prosecution fails to establish a prima facie case of the applicant's involvement in or commission of the alleged offence. Since this necessary aspect has not been satisfied by the applicant, the applicant is presently disentitled to claim the bail.

26. In view of the aforesaid observations and having regard to the gravity of the offence, I do not find merit in the present application and accordingly, the bail application is rejected.