

MHKO010032072024



ORDER BELOW EXH.12 IN SESSIONS CASE NO. 161/2024

State of Maharashtra .. State

Vs.

Shubham @ Banda Prakash More .. Applicant/accused.

1. This is first bail application moved by accused No.2 in C.R.No.797/2023 registered with Juna Rajwada Police Station under Section 302 r.w. section 34 of I. P. C.

2. As per case of prosecution, Shubham Patil, Sangram Padalkar and present applicant were friends and used to roam around together. Shubham's father had advised him not to be in their company due to their improper behaviour. Therefore, Shubham used to avoid going out with both of them, but they used to abuse him and threaten him to go out with them. They used to spend from Shubham's pocket. On 29/11/2023, Shubham left with Sangram and Banda and did not return home. On 30/11/2023, Shubham's dead-body was found in Mail-khadda ground. His head was crushed with a big stone. Therefore, the informant lodged FIR against both the accused on same day.

3. It is stated by the applicant that he has not committed any offence but he is arrested on the basis of suspicion. The case is based on circumstantial evidence. Investigation is complete and charge-sheet is filed. Nothing incriminating is recovered from present applicant. Ld. Advocate for the applicant argued that prosecution has not shown motive to commit the offence. He argued that theory of 'last seen together' is big piece of evidence. He pointed out that there is no direct evidence against present applicant. He submitted that applicant is young laborer and is ready to furnish local surety.

4. Ld. APP and I.O. opposed the bail application by filing say at Exh.14 and contended that both the accused committed murder of Shubham Patil on the ground of some dispute. Ld. APP argued that CCTV Footage is available whereby it can be seen that present applicant and the deceased went to Mail-khadda ground on the motorcycle. There is apprehension that the applicant may commit serious offence in future or may pressurize the witnesses.

5. I have carefully considered rival submissions and have perused the charge-sheet as well as citations relied upon by Ld. Advocate of the applicant. There are serious allegations of murder levelled against the applicant and the offence is punishable with death or life imprisonment. As per

FIR, Shubham was friend of the applicant and another accused Sangram and they used to roam together.

6. Police papers reveals that on night prior to the said incident, Shubham was seen together with both the accused in Hotel Indira Sagar Bar. From the CCTV Footage of liquor bar, it can be seen that there was some quarrel between accused and Shubham and accused was apologizing to Shubham by touching his feet. Thereafter all three of them left together on a motorcycle and went towards Mail-khadda ground. Prima facie, since there was quarrel between them, there appears motive for the crime.

7. Confessional statement of the accused can be kept aside as they are not admissible in evidence. As the case is based on circumstantial evidence, there are other factors to be looked into. There is statement of witness who stated that present applicant came to his house and confessed about the offence. Although extra judicial confession and its evidentiary value will be considered during trial, it can be considered for taking into account prima facie case. The witnesses have also stated that both the accused were under influence of alcohol and they were quarreling in bar.

8. Shubham died due to head injury and the photographs filed on the record reveal that the attack was

brutal as entire head was crushed in such a way that blood was splattered all over the place. One of the eye was popping out and even the police took some time to identify the body as the face was too disfigured.

9. CCTV Footage shows that both the accused were last seen together with the deceased. Applicant was seen together with Shubham during late hours and going towards Mail-khadda ground wherein his dead-body was found. There is not much time-gap between CCTV Footage and alleged incident. Statements of the witnesses show prima facie involvement of present applicant in a serious offence of murder.

10. Ld. Advocate for the applicant relied upon case of **Sachin Dattopant Kulthe Vs. State of Maharashtra, 2024 DGLS(Bom.)1450**. In the said case, FIR was registered in 2021 and applicant was arrested. Charge-sheet was filed in 2022 and till 2024, even charge was not framed. Considering right of speedy trial, bail was granted to the accused. He relied upon case of **Deepak Vijay Dolas Vs. State of Maharashtra, 2023 DGLS(Bom)303**, wherein Hon'ble High Court observed that case was based on circumstantial evidence and there was time gap between 'last seen' moment and the actual incident. Hon'ble Court observed that CCTV was behind by 1 hour 50 minutes and 164 statement of

witness did not reveal date and time of last seen together, and therefore bail was granted. As facts of these two cases were different, they will not apply to present set of facts.

11. Ld. Advocate for the applicant relied upon case of **Niklesh Prakash Patil Vs. State of Maharashtra, 2025 ALL MR (Cri)2476** wherein Hon'ble Bombay High Court re-iterated that law incarceration pending the trial in principle ground for granting bail to under trial accused. In the said case, crime was registered in 2017 under section 302, 376(2) and 201 of IPC and the accused was incarcerated for 07 years 08 months. In present case, present applicant was arrested during November 2023. The prosecution is ready to conduct the matter and muddemal is also deposited in the Court. As facts are different, said citation will not apply to present case. Considering the nature and gravity of the offence and prima facie involvement of present applicant, I am not inclined to release him on bail. Hence, I pass following order.

ORDER

Bail application is rejected.

Kolhapur.
Date : 12/09/2025

(Aparna S. Waikar)
Additional Sessions Judge,
Kolhapur.

I affirm that the contents of this P.D.F. file order are same, word to word, as per the original order.

Name of the Stenographer	Mrs.S.R.Tambvekar
Name of Court	Mrs. Aparna S. Waikar, Additional Sessions Judge, Kolhapur.
Date of Dictation	12/09/2025
Order signed by the P.O. on	12/09/2025
Order uploaded on	12/09/2025