

*Shabnoor*

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.1304 OF 2024

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Chetan Kisan Patil

... Applicant

V/s.

State of Maharashtra

... Respondent

Mr. Nitin Sejpal a/w Pooja Sejpal with Ms. Akshata Desai with Mr. Siddharth Gharat for the Applicant.

Ms. Pallavi Dabholkar, APP for the State – respondent.

CORAM : AMIT BORKAR, J.

DATED : JUNE 18, 2025

P.C.:

1. The present bail application is filed by the applicant under Section 439 of the Code of Criminal Procedure, 1973, seeking his release in connection with Crime Register No. 32 of 2023 registered with Vartak Nagar Police Station. The applicant is charged for offences punishable under Sections 306 (abetment of suicide), 387 (putting a person in fear of death or grievous hurt in order to commit extortion), 506(2) (criminal intimidation), 427 (mischief causing damage), 323 (voluntarily causing hurt) read with Section 34 (common intention) of the Indian Penal Code, 1860. In addition, the provisions of Sections 3(1)(ii), 3(2), and 3(4) of the Maharashtra Control of Organised Crime Act, 1999 ('MCOCA') have also been invoked against the applicant.

2. The case of the prosecution, in brief, is that on 29th January 2023, the informant received a call from his brother, who reported that a group of four persons, including the named accused, had physically assaulted him and forcefully extorted money by using a metal seizer. This incident allegedly caused panic in the area, resulting in nearby shopkeepers and residents shutting their shops out of fear. Thereafter, on 30th January 2023, when the informant's brother was closing his shop, co-accused Sachin is alleged to have threatened him not to approach the police authorities regarding the said assault. Unfortunately, on the next day i.e., 31st January 2023, the informant was informed by his nephew that his brother Naresh had committed suicide. A suicide note was found, which mentioned one Dhiraj as being responsible for the assault that had taken place earlier. The prosecution alleges that Dhiraj had committed the act along with his associates, one of whom was Rohit and another was the present applicant. It appears from the record that the applicant had earlier applied for bail before the learned Sessions Court, which was rejected. He has therefore approached this Court with the present application.

3. Learned counsel for the applicant has pointed out that this Court has already granted bail to co-accused Rohit by a detailed order dated 4th April 2025 in Bail Application No. 339 of 2024. It is argued that the role attributed to the present applicant is similar to that of Rohit. Both are said to have participated in the incident along with co-accused Dhiraj, and both have comparable antecedents, if any. In such circumstances, it is contended that on the principle of parity, the applicant also deserves to be released on

bail.

4. On the other hand, the learned APP has strongly opposed the grant of bail to the applicant. She submits that the order passed in Rohit's case contains an incorrect observation to the effect that no Test Identification Parade (TIP) was conducted, whereas, according to her, the TIP was indeed held. It is further submitted that the role of the present applicant is clearly made out from the statement of co-accused recorded under Section 18 of the MCOCA Act, and is also supported by other material collected during the investigation. She further submits that the State is in the process of challenging the bail order passed in favour of co-accused Rohit, and therefore, requests that the hearing of the present application may be deferred until the challenge to the said order is decided.

5. It is now necessary to consider the second objection raised by the learned Additional Public Prosecutor. She has argued that the order passed by this Court in favour of the co-accused, on the basis of which the present applicant seeks parity, is likely to be challenged by the State Government. In this context, it must be clarified that the mere intention or contemplation to file an appeal against a bail order does not automatically dilute the legal effect or binding nature of such order unless and until it is stayed, modified, or set aside by a higher forum.

6. Merely stating that a proposal is "under consideration" is not sufficient to deprive another similarly situated accused of the benefit of parity. There exists a well-defined procedure to challenge an order passed by this Court. If an officer of the

Prosecution Department or Police Department believes that the said order deserves to be challenged, such opinion must be translated into a concrete proposal. This proposal must contain cogent and justifiable reasons, supported by the record, and must be submitted to the Law and Judiciary Department of the Government of Maharashtra within a reasonable time.

7. Further, it is expected that the officer or authority who considers such proposal at the government level should pass a reasoned order either granting or refusing permission to file such appeal. A bare, one-line note stating that permission is "not necessary" cannot be considered sufficient compliance. Judicial accountability and transparency in administrative decision-making demand that the order rejecting such proposal must reflect application of mind and record reasons which indicate consideration of the facts of the case. Such reasoning forms the bedrock of the doctrine of fairness in administrative law.

8. In cases where the liberty of a citizen is at stake, the law requires promptness and responsibility from prosecuting authorities and the executive. Delay in acting on judicial orders cannot become a ground to deny benefit of those very orders. Therefore, in all such matters where the State Government or prosecution intends to challenge a bail order passed by this Court, it is expected that a proper and complete proposal, supported by necessary documents and justification, must be forwarded to the Law and Judiciary Department within two weeks from the date on which the concerned bail order is uploaded on the official website of this Court.

9. Thereafter, the concerned officer or authority in the Law and Judiciary Department must ensure that the said proposal is scrutinized and decided within two weeks of its receipt. The reasons for either granting or refusing such permission to file appeal must clearly disclose thoughtful application of mind, showing due regard to the facts of the case and the principles of criminal justice.

10. These timelines and obligations are not mere procedural formalities. They are meant to uphold the rights guaranteed under Article 21 of the Constitution of India and to prevent unnecessary pre-trial incarceration. Observance of these procedural safeguards strengthens public confidence in the fairness of the criminal justice system and promotes responsible governance.

11. In the facts of the case, the order has been passed on 4th April 2025, as of today i.e., 18th June 2025 no proposal is prepared nor is filed with the Law and Judiciary Department and the hearing of such application, which affects liberty of person cannot be adjourned indefinitely as it may affect of liberty of individual person who is entitled to be released on bail based on doctrine of parity. Therefore, in the facts of the case, I find, it is necessary to decide the present bail application.

12. Learned Advocate for the applicant invited my attention to the role assigned to the applicant and role attributed to the applicant in Bail Application No.339 of 2024. On perusal of the material in the form of chargesheet, it appears that the applicant along with Rohit (who granted bail) have been assigned similar

role. Moreover, the antecedents of both are common. Therefore, in my opinion, no other factor to distinguish their role or antecedents is brought to my notice. Therefore, the applicant is entitled to the benefit of doctrine of parity.

13. However, it is made clear that in case the order dated 4th April 2025 is set aside in the future time, it shall be open for the prosecution to file an appropriate application. The applicant has therefore made out a case for being released on bail.

14. In view of the above discussion and legal position, the following order is passed:

(a) The Bail Application is allowed.

(b) The applicant, Chetan Kisan Patil, shall be released on bail in connection with Crime Register No. 32 of 2023 registered with Vartak Nagar Police Station for the offences punishable under Sections 306, 387, 506(2), 427, 323 read with 34 of IPC, and Sections 3(1)(ii), 3(2) and 3(4) MCOC Act, upon furnishing a Personal Bond of ₹25,000/- (Rupees Twenty-Five Thousand only) along with one or more solvent sureties in the like amount, to the satisfaction of the learned Trial Court, subject to the following conditions:

(c) The applicant shall not tamper with evidence, or directly or indirectly contact, influence, threaten, or intimidate any witness.

(d) The applicant shall attend all proceedings before the Trial Court regularly, unless exempted by the Court on valid

grounds supported by sufficient cause.

(e) The applicant shall not leave the territorial jurisdiction of the Trial Court without its prior written permission.

(f) The applicant shall not commit any offence or engage in any criminal activity during the pendency of the trial.

(g) The applicant shall, at the time of furnishing surety, provide his current residential address and mobile number to the Investigating Officer as well as the Trial Court, and shall inform the Court in writing of any change in residence or contact details during the pendency of the case.

15. The Bail Application is accordingly disposed of.

16. Let a copy of this order be forwarded to the Secretary, Law and Judiciary Department, Government of Maharashtra, and to the Principal Secretary, Home Department, Government of Maharashtra, for information and necessary compliance, so as to ensure adherence to the timelines stipulated in paragraphs 5 to 10 of this order.

(AMIT BORKAR, J.)