WAKLE MANOJ JANARDHAN
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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO.2272 OF 2026

Shoiab Imtiyaz Hussain Khan ...Applicant

V/s.

The State of Maharashtra ...Respondent

WITH
INTERIM APPLICATION NO.2285 OF 2026
IN
CRIMINAL BAIL APPLICATION NO.2272 OF 2026

Mr. Hashmat Ali Haidar Ali Khan ...Intervenor

IN THE MATTER BETWEEN :-

Shoiab Imtiyaz Khan ...Applicant

V/s.

The State of Maharashtra ...Respondent

Mr. Sudeep Pasbola, Senior Counsel a/w Mr. Ayush Pasbola, Adv. Sankalp Vichare & Adv. Chinmay Godse, for the Applicant.
Mr. Kuldeep Patil a/w Adv. Vaibhav Ugle, Adv. Prashant Mahajan & Adv. M. Waghmode, for the Intervenor/Informant.
Ms. K. T. Hiwrale, APP for the Respondent-State.
Mr. Sandip Phanse, PI, Agripada Police Station, present.

CORAM: SHYAM C. CHANDAK, J.
DATED : 9th OCTOBER, 2026

P.C. :-

1. Heard learned counsel for the parties. Perused the record.

2. Applicant seeks his release on bail in connection with Cr.No.193 of 2025, registered with Agripada Police Station, Mumbai for the offence punishable under Sections 103(1), 238 and 61(2) of the Bharatiya Nyaya Sanhita, 2023 ("BNS"), on the reported dated 16th April, 2025 lodged by the Intervenor Mr. Hashmat Ali Haidar Ali Khan, the informant.

3. The prosecution case is that the deceased - Gulshan Khan was the second wife of the informant. Mahenur Khan was their daughter. The applicant and co-accused Zaid are brothers and they are sons of the brother of the informant. Co-accused Subhan Shah and Afsar Ali @ Hannan were drivers of the deceased and the applicant.

The incident occurred on 06.04.2025, at about 4.00 am to 5 am. At that time, the applicant, deceased and Mahenur were residing together at Flat No.1305, 13th floor, Monte South Building, Byculla. Their maid Ms. Fatima was residing with them.

4. In the night intervening 5th and 6th April 2025, the deceased, applicant, Mahenur and Fatima were present in their Flat. It is alleged that on 06.04.2025, at about about 4 am to 5 am, the deceased fell from the duct in the common bathroom of her flat. She was found at the duct of floor No.9. She had sustained injuries and was found dead. At about 6.00 a.m., friend of Mahenur visited the informant and informed him the said incident. Immediately, police arrived at the spot, referred the dead body for autopsy and recorded the spot panchnama. The death was registered as ADR No.19 of 2025. Thereafter, the postmortem was performed. Police recorded the statement of Mahenur on 06.04.2025, therein, she did not raise suspicion against any person.

5. On 09.04.2025, the informant filed a complaint with Agripada police station. Therein, he alleged that the applicant and the deceased were engaged in fraudulent finance business. A complaint was filed against them with Crime Branch Unit No.4. The deceased used to tell the applicant that she and the applicant both should return the money, but, the applicant was not ready for the same. The applicant and co-accused Zaid used to insist the deceased

that she alone should return the money. On 06.04.2025, quarrel had occurred between the deceased and the applicant on account of money and their illicit relationship. Therefore, it is alleged that either the deceased was abetted to commit suicide or the applicant pushed her down. Thereafter, police recorded the statement of the applicant and Fatima.

6. On 16.04.2025, police recorded a detailed statement of the informant. Therein it is alleged that, about 7 to 8 years prior to December 2022, illicit relationship was established between the deceased and the applicant. In December, 2022, the deceased had left the house of the informant carrying 65 *tolas* of gold. Thereafter, the applicant, deceased and Mahenur went to reside in Thane. In the year 2024, they shifted together at Flat No.1305,13th Floor, Monte South Building, Byculla, Mumbai.

It is alleged that, the applicant and the deceased were running a bogus loan scheme, thereby, they used to assure needy people that they would arrange loans for them, but would ultimately cheat them. Therefore, a complaint was filed against the two at Crime Branch Unit No.4. Consequently, there used to be dispute between the two. It is alleged that, whenever Mahenur used to visit the informant, she used to tell that the applicant and his family members used to harass the deceased. It is alleged that, on 02.04.2025, at about 6:30 pm, the deceased phoned the informant with the mobile phone of Mahenur and admitting her mistake, she told the informant that she wants to come back to him as the applicant and his relatives were harassing her for money; that, they have taken her jewellery and money; that, it was intolerable for her; and, she wanted to end her life. On 04.04.2025, the deceased had repeatedly called the informant from an unknown mobile number,

however, he did not answer the call. It is alleged that, the applicant, his brother co accused- Zaid Khan and mother Roshan Ara harassed the deceased on account of financial transactions and thereby abetted her to commit suicide. Consequently, the deceased committed suicide by jumping from the duct window in the bathroom.

6.1 Accordingly, police registered the offence at Cr. No. 193 of 2025, under Section 108, 351 (2) and 3 (5) of BNS. Thereafter, police recorded a fresh spot panchanama, obtained the postmortem report and recorded statement of the witnesses including supplementary statements of the informant, Mahenur and Fatima. Investigation revealed that, on 09.04.2025, the applicant had phoned Mahenur and asked her to phone Fatima and instruct Fatima that, during police inquiry, Fatima should tell police that the applicant had not pushed the deceased from the duct.

In her supplementary statement dated 29.04.2025, Mahenur stated that, on 06.04.2025, she did not know that deceased had fallen into the duct. She further stated that the applicant had awakened her, and had allegedly threatened not to tell the police so, but to state that she had awakened him, otherwise, he will not spare her. She further stated that, possibly, the applicant had had pushed the deceased into the duct over financial disputes.

6.2 The postmortem report revealed that the deceased had following injuries as recorded in Column No.17 therein: -

> 1. Laceration and avulsion of right cheek extending from right upper lip to inner canthus of right eye, exposing the underlying soft tissue, muscles and fracture zygomatic arch and maxilla bone. Hemorrhagic infiltration seen.

2. Laceration of size 3cm x 1 cm x tissue deep present over inner canthus of left eye

3. Laceration of size 3cm x 2 cm x tissue deep present over occipital region reddish in color

4. Laceration of size 4cm x 3cm tissue deep present over right temporal region

5. Multiple bruises of different sizes preset over anterior aspect of chest and abdomen.. Faint reddish in colour.

6. Graze abrasion of size 8cm x 5 cm present dorsum of right hand. Red in colour

7. Two small abrasions 2.5 x 2.5 cm and 2cm x 2cm present over right dorsum of hand at base of index, middle finger and ring finger.

8. Graze abrasion of size 4cm x 3cm present over extensor aspect of forearm. Faint reddish in colour

9. Graze abrasion of size 3cm x 3cm present over extensor aspect of forearm, faint red in colour

10. Graze abrasion of size 8cm x 4cm present over right lateral aspect of thigh, faint reddish in color

11. Few small abrasions noted over both the dorsum of foot and near ankle joint. faint reddish in color

6.3 On 02.06.2025, police sent a query letter to the Forensic Department, Nair Hospital and, sought an expert's opinion about the said injuries. In turn, a team of the Government Doctors visited the spot and after the spot inspection, gave an opinion that, "except the external injury No.3, the other injuries were sustained due to fall from 13th to 9th floor (40 feet). Lastly, the said team opined that, "after scientific analysis of postmortem findings, Crime scene examination, corroborated with ADR panchnama and related documents, we are of opinion that, the manner of causation of fall

and subsequent death is more likely homicidal as compared with accidental and less likely to be suicidal fall."

6.4 In the backdrop, the offence u/S. 108 was changed to Section 103(1) of BNS. During further investigation, police recorded the statements of remaining witnesses.

6.5 Investigation revealed that, prior to the incident, the applicant and the deceased were doing unauthorized loan business by promising prospective loan borrowers that, they would get such borrowers the required loan, but, against accepting advance amounts as commission. In one such case, advance Rs.10 lakh were received by the applicant in his bank account from Rishikesh Vishwakarma and Rs.40 lakh were received to the deceased in her bank account from Pradeep Chavan. However, the applicant and the deceased failed to arrange for the loan or to return the advance amounts. Therefore, the loan borrowers started demanding their money back. Some amount was returned by the applicant and the deceased. Therefore, a complaint was filed by Pradeep Chavan with Crime Branch Unit 4, Mumbai. This situation led to disputes between the applicant, deceased and their associates. Witness Amin Khan disclosed that he had been in a romantic relationship with the deceased until March 2021 and, her continued contact with him had annoyed the applicant. The deceased also allegedly objected the applicant for bearing the rent expenses of co-accused Zaid Khan and his family and to sharing additional commission.

Therefore, on 06.04.2025, the applicant allegedly assaulted the deceased on the back of her head with an iron rod, pushed her through the bathroom duct and committed her murder. The statements of Mahenur, Fatima, the recorded call and CCTV footage allegedly indicate attempts to influence the case. The CCTV footage

and statements of other witnesses indicated that, immediately after the incident, when the police and facility team of the society arrived at the flat No.1305. The co-accused driver Afsar Ali @ Hannan and Subhan Shah along with co-accused Zaid also arrived there, between 6:20 am to 7:40 am. At that time, co-accused Afsar Ali removed one blue colour bag from the room and then, the three co-accused went down. Further, the said blue bag was given to absconding accused, Fahad Khan. Lastly, Fahad Khan, Afsar Ali @ Hannan and Subhan Shah went away in certain vehicle. During interrogation, accused Subhan Shah disclosed that, when the said blue bag was carried down, it was torn at the bottom, one iron rod was seen in the bag and part of the iron rod had come out the bag. Thus, the co-accused persons abetted in the crime to cause disappearance of the evidence. Hence, charge-sheet came to be filed. The trial Court rejected the applicant's prayer for bail.

7. Mr. Pasbola, learned Senior Counsel for the applicant submitted that, there is no evidence that the deceased had 65 *tolas* of gold and it was stolen after the incident. He submitted that since the deceased had married with the applicant leaving the company of the informant, the later had grudge against the applicant and his family. He submitted that there were several complaints before and after the incident about improper work at places in the society building and unsafe duct doors in several flats in the building. He submitted that the said external injury Nos.3 and 4 are identical, therefore, it is highly probable that injury No.3 was caused due to fall from the duct. He submitted that injury No.3 did not result in fracture to the occipital region and it was not a serious injury. Therefore, even on sustaining that injury, the deceased could have easily shouted for help, which did not happen. He submitted that, considering the internal arrangement of the bathroom and the

physique of the deceased, it was impossible for the applicant to alone overpower the deceased and push her through the duct. There is no sufficient, cogent and reliable evidence to accept that there was an iron rod in the bag allegedly removed from the flat. He submitted that immediately after incident Mahenur went to reside with the informant. It is submitted that no offence was registered against the applicant and the deceased for cheating the prospective borrowers. In these circumstances, according to the learned Senior Counsel Mr. Pasbola, possibility cannot be ruled out that the deceased accidentally fell through the duct, resulting in her death. However, the informant lodged a false report alleging the murder and pressurized Mahenur to give false statements against the applicant. Therefore, the applicant be released on bail.

8. Ms. Hiwrale, the learned APP and Mr. Patil, the learned Advocate for the informant have submitted that, the statements of the witnesses clearly indicate that before the incident, there were disputes between the applicant and the deceased in relation to financial matters. Said disputes were also revolving around the co-accused persons. Additionally, the two were at dispute on account of the deceased's illicit relationship with Amin Khan. Therefore, the applicant had grudge against the deceased and he committed her murder as above and caused disappearance of the evidence with the help of the co-accused persons. This conclusion arrived at by the investigating officer is well founded by opinion given by the team of the doctors that the injury No.3 over the occipital region was not due to fall and in the facts, it was due to blow from an iron rod referred to by the co-accused Subhan Shah. They have contended that the telephonic conversation occurred on 09.04.2025 between Fatima and Mahenur show that the applicant had told Mahenur to tell Fatima that the applicant had not pushed the deceased through

the duct. This conduct of the applicant supports the prosecution story. Thus, there is a *prima facie* case against the applicant of the alleged offence and he is not entitled for bail.

9. I have considered these submissions and carefully gone through the material on record. On the strength of their contention, what Ms. Hiwrale and Mr. Patil have tried to impress upon the Court is that, first, the applicant had assaulted the deceased over her head by means of an iron rod and caused her said injury No.3, i.e., "Laceration of size 3 cm x 2 cm x tissue deep present over occipital region reddish in color". However, according to Fatima, the deceased was well built and strong. Therefore, and considering the photo of the bathroom, it cannot be said that when the applicant had tried to assault the deceased, she was not in a position to defend her. Moreover, the external injury No.4 "Laceration of size 4 cm x 3 cm tissue deep present over right temporal region" is similar to the disputed injury No.3, except its locations on the body. The injury No.4 is attributed to fall. Nevertheless, how and on what basis these two injuries have been distinguished by the experts, is not discernible from the record. That apart, at Item No.9 of the opinion, the team stated that, "After examination of the pattern of the injuries, they were sustained due to fall while head/face/chest being the presenting part of the impaction." Therefore, in my view, the possibility of sustaining said injury No.3 due to fall is not completely ruled out and it is a question of trial as to whether the applicant had caused that injury or not.

9.1 Secondly, the postmortem report or the opinion of the team of the doctors do not claim that there was underline fracture at the occipital region due to striking with a hard and blunt object. Nothing is pointed from the record indicating that on sustaining the

injury No.3 the deceased had become unconscious and was not able to talk/shout. It is not the case that the injury No.3 was sufficient in the ordinary course of nature to cause the death. Therefore, in the facts, it is safe to infer that even on sustaining the injury No.3, the deceased could have at least shouted or alerted Mahenur and Fatima and sought their help to rescue her from the applicant when he was trying to throw her into the duct. However, what Mahenur and Fatima had heard, only the call 'Chik-Chik", which is Mahenur's nick name. But that fact alone is not sufficient to *prima facie* conclude that the applicant had assaulted the deceased, therefore, she gave that call.

9.2 Record and the photos produced by the police indicate that there was a glass divider between the basin area and the shower area of the bathroom. The gap between the wall and the outer edge of the glass was about one and half feet. According to the statement of Fatima, the deceased was of aggressive nature and fearless. Considering these facts coupled with the fact that the deceased was not unconscious at the time of the incident even on sustaining the injury No.3, it may be said that she must have resisted the applicant when he was trying to forcibly move her towards the duct. And in that scuffle like situation, it was highly probable that the two would forcibly dash to the glass partition and damaged it. However, no such damaged caused to the glass partition.

9.3 Ms. Hiwrale and Mr. Patil pointed that, while recording the spot panchanama on 16.04.2025, the Investigating Officer had found a sleeper stained with blood near the bedroom door, blood stains on the door of the common washroom and a blood-stained sanitary napkin inside that washroom attached to the master bedroom. However, these very facts were not noticed by Mahenur,

Fatima and surprisingly by the Investigating Officer who had recorded the 1st spot panchanama on 06.04.2025. Although, the CA report indicates that it was a human blood, the test results for the blood grouping were inconclusive. Therefore, at this stage, it would be too premature to conclude that said blood was of the deceased.

9.4 The bald assertion by the informant that the deceased had carried 65 *tolas* of Gold is not supported with any other material on record. There is no recovery of the blue bag, therefore, merely on the basis of the disclosure statement of co-accused Subhan Shah it is difficult to accept that said bag was containing the iron rod, bed sheet etc. No doubt, the conjoint reading of the statements of Mahenur and Fatima indicate that on 09.04.2025 the applicant had called Mahenur to instruct Fatima that before police Fatima shall state that the deceased was not pushed from the duct. However, in the backdrop of the above discussion, in the absence of other supporting material and inconsistency in their statements, at this stage, said circumstance itself is not sufficient to form a *prima facie* view that the applicant has committed the murder.

10. As noted above, there were disputes between the applicant and the deceased on account of the financial matters and personal life of the deceased. There was complaint made to police about the financial irregularities allegedly committed by the applicant, the deceased and other. Just four days before the incident, i.e., on 02.04.2025, the deceased had complained the informant on phone that the applicant and his family members were harassing her, they had snatched her jewellery, it was intolerable for her, therefore, she wanted to commit suicide. As per Fatima's statement dated 04.06.2025, quarrel had occurred between the applicant and the deceased. As stated in the complaint dated 09.04.2025 filed by the

informant, quarrel had occurred between the applicant and the deceased in the evening of 05.04.2025, may be in the night time and just few hours before the incident. In this background, the possibility of the suicidal death of the deceased cannot be ruled out.

11. In view of the above discussion, whether the applicant has committed the murder of the deceased or not, is a question of trial. The investigation is over. Further detention of the applicant in jail will not serve any purpose. The applicant is not likely to abscond and tamper with the prosecution evidence. The applicant is in jail for more than one year. The prosecution has cited 31 witnesses. As such, the trial is not likely to commence and conclude in the foreseeable future. Therefore, the applicant is entitled to be released on bail. Hence, following Order:

(i) Applicant – Shoiab Imtiyaz Hussain Khan be released on bail in Cr.No.193/2025 registered with Agripada Police Station, Mumbai, on his executing a P.R. Bond in the sum of Rs.1,00,000/- with one or two sureties in the like amount.

(ii) The applicant shall mark his attendance at Agripada Police Station, Mumbai on 1st day of a month, between 11:00 a.m. to 2:00 p.m., till conclusion of the trial.

(iii) The applicant shall regularly attend the proceedings before the jurisdictional Court.

(iv) The applicant shall not tamper with the prosecution evidence and shall not directly or indirectly influence upon the prosecution witnesses to prevent them from deposing against him.

(v) On being released from jail, the applicant shall furnish his contact number and residential address to the Investigating Officer and shall keep him updated, in case there is any change.

(vi) The applicant shall surrender his passport with the concerned Investigating Officer.

(vii) It is clarified that any observation made in the present Order are for the purpose of deciding the present Bail Application and should not influence the outcome of the trial and also not be taken as an expression of opinion on the merits of the case.

12. Bail Application stands disposed of in aforesaid terms. Since the hearing opportunity was given to the informant, the Interim Application No.2285 of 2026 stands disposed of, accordingly.

(SHYAM C. CHANDAK, J.)