

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CRIMINAL APPELLATE JURISDICTION**

**CRIMINAL BAIL APPLICATION NO. 2603 OF 2021**

|                           |              |
|---------------------------|--------------|
| Zishan Akhtar Abdul Malik | ..Applicant  |
| Vs.                       |              |
| The State of Maharashtra  | ..Respondent |

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Mr. M. N. Sandhyanshiv, for the Applicant.  
Mr. R. M. Pethe, APP for the Respondent / State.

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**CORAM : C.V. BHADANG, J.  
DATE : 31 JANUARY 2022  
(Through Video Conferencing)**

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**P.C.**

. By this Application, the Applicant (Accused No.5) is seeking bail. The Applicant alongwith four others has been chargesheeted for the offence punishable under Section 302, 307, 323, 427, 452, 504, 147, 148 and 149 of the IPC and Section 4 and 25 of the Indian Arms Act and Section 37(1)(3) and 135 of the Maharashtra Police Act.

2. The prosecution case as disclosed from the complaint lodged by Nisar Ahmed who is father of the deceased Akil Ahmed, is that the Applicant had accosted the deceased as to how he had disconnected electricity connection to the house of Kashmiri Sheth

on 1 March 2021 at about 9.00 p.m. The first incident happened at about 7.00 a.m. on 2 March 2021 in which some of the accused are alleged to have gone to the house of the deceased and accosted him as above. Admittedly, the Applicant was not present in the incident which happened at 7.00 a.m. This was followed by another incident at about 7.30 a.m. on the same day. The allegation, in so far as the present Applicant and Accused Taufeeque Akhtar Abdul Malik is concerned, is that they had assaulted the deceased by fist and kick blows. The allegation against the other Accused is an assault by an iron pipe and knife. The third incident happened at about 8.30 a.m. on the same day when again allegation in so far as present Applicant and Taufeeque is that they had assaulted the deceased by fist and kick blows.

3. The learned counsel for the Applicant has placed reliance on the order dated 23 November 2021 passed by this Court in BA No.3212/2021 by which Taufeeque Akhtar Abdul Malik has been released on bail, interalia on the ground, that the only role attributed to the present Applicant is use of fist and kick blows while assaulting the deceased. This Court has noted that the post mortem report shows the cause of death as “Cardio respiratory arrest due to massive blood loss due to penetrating injury to left carotid artery”. Admittedly, there are no criminal antecedents pointed out to the discredit of the Applicant. There is no recovery of articles except

recovery of clothes at the instance of the Applicant. In such circumstances, in my considered view, parity will apply to the present Applicant. In the result, the following order is passed.

**ORDER**

- (i) Applicant - Zishan Akhtar Abdul Malik shall be released on bail in C.R. No. 26/2021 registered with Azad Nagar Police Station, District Nashik on his executing P.R. Bond in the sum of Rs.20,000/- with one or more sureties in the like amount.
- (ii) The Applicant shall not tamper with the prosecution evidence and shall attend the trial regularly.
- (iii) The observations made hereinabove are prima facie in its nature for the purpose of deciding the bail application only. The trial Court shall not be influenced by the observations while deciding the case on merits.
- (iv) Parties to act on copy of this order duly authenticated by the Sheristedar of this Court.
- (v) The Application is allowed in the aforesaid terms.

**C.V. BHADANG, J.**