

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

BAIL APPLICATION NO.1720 OF 2022

Mohammad Furkan Faroukh Shaikh ..Applicant

VS.

The State of Maharashtra ..Respondent

Mr. Niranjan Mundargi a/w Mr. Ganesh Nadar a/w Ms. Keral
Mehta for the Applicant.

Ms. P. N. Dabholkar, APP for the State.

CORAM : M. S. KARNIK, J.

DATE : JANUARY 18, 2023

P.C. :

1. Heard learned counsel for the applicant and learned
APP for the State.

2. This is an application for bail by the applicant-
Mohammad Furkan Faroukh Shaikh in connection with C.R.
No.737 of 2019 dated 09/08/2019 registered with Virar
Police Station for the offence punishable under Sections 302
and 201 of the Indian Penal Code, 1860 (hereafter "the
IPC", for short).

3. The application for bail made by the applicant was
rejected on merits by this Court on 09/09/2020. The
applicant is alleged to have committed an offence

punishable under Sections 302 and 201 of the IPC. The applicant was arrested on 12/08/2019. In all there are three accused. The evidence against the applicant is not direct but circumstantial. The reason why this application is preferred is that the applicant is suffering from right chronic kidney disease (moderate to severe cortical dysfunction 18%). The applicant was released on medical bail for a period from 25/06/2021 to 21/10/2021 and for the period from 10/02/2022 to 09/05/2022. The applicant was undergoing treatment during this period and surrendered within the time prescribed.

4. A report was called from the Thane Central Prison regarding the medical condition of the applicant. A report dated 01/12/2022 reveals that the applicant is haemodynamically stable at present and he was sent to Sir JJ Hospital, Mumbai on 30/10/2021, 01/11/2021, 04/11/2021, 20/01/2022, 27/01/2022, 04/02/2022, 07/02/2022, 18/05/2022, 05/09/2022 and 14/09/2022. As mentioned earlier during the intervening period when the applicant was released on medical bail, he was undergoing

the treatment at a private hospital. From the report dated 01/12/2022 it is seen that the applicant has complained of pain in abdomen, burning micturition, intermittent fever and is a known case of chronic kidney disease. The clinical diagnosis reveals that the applicant is a case of right chronic kidney disease (moderate to severe cortical dysfunction 18%). Further, the report reveals as under :-

"At Sir JJ group of Hospital, Mumbai urology OPD days are Monday & Thursday. According to OPD days of Urology Dept. demanding police escorts since 14/09/2022 to send the prisoner to Sir JJ group of Hospital, Mumbai for surgery management. But on particular OPD days police escorts were not available. So that Prisoner is not getting further date for surgery management. On availability of Police escorts Prisoner will send to Sir JJ group of Hospital, Mumbai for further treatment & management."

5. Considering the health condition of the applicant and also taking into consideration that on two earlier occasions when the applicant was released on bail on medical ground, the applicant has surrendered and considering the fact that the applicant is need of further treatment and management, the applicant can be released on bail considering his medical condition. It needs to be considered that the

applicant is now in custody for almost 3 years and 5 months with no possibility of the trial concluding any time soon. There are no criminal antecedents reported against the applicant. Learned counsel for the applicant submitted that the applicant did not misuse his liberty when he was granted bail on the earlier occasions. The charge-sheet is filed and the investigation is complete. There is no allegation that when he was released, the applicant tampered with the witnesses.

6. Hence, the following order :-

ORDER

- (a) Application is allowed.
- (b) Applicant-Mohammad Furkan Faroukh Shaikh shall be released on bail in connection with C.R. No.737 of 2019 registered with Virar Police Station, on his furnishing P.R. Bond of Rs.25,000/- with one or more sureties in the like amount.
- (c) The applicant is permitted to furnish temporary cash bail surety in the sum of Rs.25,000/- for a period of 6 weeks in lieu of surety.
- (d) The applicant shall not directly or indirectly make any inducement, threat or promise to any person

acquainted with the facts of the case so as to dissuade him from disclosing the facts to Court or any Police Officer. The applicant shall not tamper with evidence.

(e) The applicant shall report to the concerned police station once in a month i.e. on first Monday of every month between 11.00 a.m. and 1.00 p.m.

(f) On being released on bail, 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.

7. The Bail Application is disposed of.

(M. S. KARNIK, J.)