

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

CRIMINAL BAIL APPLICATION NO. 2125 OF 2023

Shahnawaz Shabbir Shaikh

...Applicant

Versus

The State of Maharashtra

...Respondent

Ms. Sana Raees Khan a/w Mr. Aditya Parmar, Advocate/s, for the Applicant.

Mr. P.P. Malshe, APP, for Respondent-State.

CORAM : MADHAV J. JAMDAR, J.

DATED : 19th March 2024

P. C.

1. Heard Ms. Khan, learned Counsel for the Applicant and Mr. Malshe, learned APP for the Respondent-State.
2. This regular Bail Application is preferred under Section 439 of the *Code of Criminal Procedure, 1973*. The relevant details are as follows:-

1.	C.R. No.	500 of 2022
2.	Date of registration of F.I.R.	22nd October 2022
3.	Name of Police Station	Yerwada, District-Pune
4.	Section/s invoked	302, 34 of <i>I.P.C., 1860</i> ;
5.	Date of incident	22nd October 2022
6.	Date of arrest	23rd October 2022
7.	Date of filing Charge-sheet	January 2023

3. There are three Accused. Accused No.1 is Mohsin *alias* Moba Badesab Shaikh, Accused No.2 is Moin Kalu Shaikh and Accused No. 3 is Shahnawaj Shaikh.

4. The present Applicant is Accused No.3. Accused Nos. 1 and 2 are absconding. As per the prosecution case, the deceased- Inzamam and Accused No.2- Moin Kalu Shaikh had some dispute regarding money. As per the prosecution case, the Applicant assaulted the deceased with kicks and fist blows and other Accused assaulted him with beer bottles.

5. Ms. Khan, learned Counsel for the Applicant submitted that the role which is attributed to the present Applicant is of assault with kicks and fist blows. The cause of death recorded in the Post Mortem examination report is head injury with multiple blunt injuries. She submitted that therefore as far as the offence under Section 302 of the Indian Penal Code, 1860 ("I.P.C"). is concerned, the Applicant is not responsible. She submitted that the Applicant has no antecedents.

6. On the other hand, Mr. Malshe, learned APP vehemently opposed the Bail Application and pointed out the statement of Ansar Juber Idrisi dated 22nd October 2022 (Page-16) on the basis of which the F.I.R. was lodged. He pointed out the statement of Sohail Shabbir Shaikh dated 23rd October 2022 (Page-27), and panchanama regarding CCTV footage dated 29th October 2022. He submitted that there is recovery of a car at the instance of the present Applicant. He pointed out the

recovery panchanama at pages 66 to 69. He also pointed out the statement of Nabi Badesab Shaikh dated 14th November 2022 (Page-106) and also statement of Vasim Amjad Kureshi dated 23rd October 2022 (Page-52). He submitted that there are 77 injuries on the body of the deceased as per the Post Mortem examination report.

7. Perusal of the record shows that the incident in question took place on 22nd October 2022, F.I.R. was registered on 22nd October 2022 and the Applicant was apprehended on 23rd October 2022. Investigation is completed and the Charge-sheet is filed in January 2023. The prosecution is proposed to examine about 20 witnesses. Accordingly the trial will take considerable time to conclude.

8. *Prima facie*, there is substance in the contention of the learned Counsel for the Applicant that the Applicant's role is of assaulting the deceased with kicks and fist blows. The P.M. report shows that the cause of death is due to head injury with multiple blunt injuries. Thus, *prima facie*, the Applicant is not involved in the offence under Section 302 of the *I.P.C.*. The Accused Nos. 1 and 2 are absconding. As far as recovery of the car, at the instance of the present Applicant is concerned, the said car belongs to Accused No.2.

9. The Applicant does not appear to be at risk of flight.

10. The Applicant does not have any criminal antecedents.

11. Accordingly, the Applicant can be enlarged on bail by imposing

conditions.

12. In view thereof, the following order:-

ORDER

(a) The Applicant - Shahnawaz Shabbir Shaikh be released on bail in connection with C. R. No.500 of 2022 registered with the Yerwada Police Station, District - Pune on his furnishing P. R. Bond of Rs.25,000/- with one or two solvent sureties in the like amount.

(b) On being released on bail, the Applicant shall furnish his cell phone number and residential address to the Investigating Officer and shall keep the same updated, in case of any change thereto.

(c) The Applicant shall report to the Yerwada Police Station, District - Pune on the Sunday of every week between 11.00 a.m. and 1.00 p.m. until the conclusion of the trial.

(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 such a person from disclosing the facts to the Court or to any Police personnel.

(e) The Applicant shall not tamper with the prosecution evidence and shall not contact or influence the Complainant or any prosecution witness in any manner.

(f) The Applicant shall attend the trial regularly. The Applicant shall co-operate with the Trial Court and shall not seek unnecessary adjournments thereat.

(g) The Applicant shall surrender his passport, if any, to the Investigating Officer.

13. The Bail Application is disposed of accordingly.

14. It is clarified that the observations made herein are *prima facie*, and the Trial Court shall decide the case on its merits, uninfluenced by the observations made in this Order.

[MADHAV J. JAMDAR, J.]