

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

CRIMINAL BAIL APPLICATION NO. 1353 OF 2024

Niyamatullah Ahemadullah Ahemadi ...Applicant

Vs.

The State of Maharashtra ...Respondent

Mr. Salman Pathan, Advocate for Applicant.

Mrs. S. M. Yadav, APP for State-Respondent.

Mr. Mohsin S. Pathan, API, Present.

CORAM:- ANIL S. KILOR, J.

DATED:- 18th OCTOBER, 2024

PG:-

1) Heard.

2) By this application under Section 439 of the Code of Criminal Procedure the applicant is seeking bail in Crime No. 425 of 2018 registered with Kondhawa Police Station, Pune, for the offences punishable under Sections 302, 307, 323 and 504 read with Section 34 of the Indian Penal Code, 1860 and Section 37(1) read with Section 135 of the Maharashtra Police Act, 1951.

3) Having gone through the charge-sheet and the material collected by the Investigating Officer during the investigation, it is evident that the offence was not pre-meditated and prima facie it appears that there was no such intention of the applicant to kill the

deceased and this can be gathered from the complaint itself wherein it has categorically stated that the quarrel took place and thereupon applicant had taken out a knife and inflicted a single blow and he ran away. It is not a case of the prosecution that he gave repeated blows by knife.

4) Thus, considering the case of the prosecution coupled with the period of incarceration of the applicant i.e. about five years and the fact that though the charge was framed long back and the last witness was examined on 7th November, 2023 thereafter no single witness has been examined for the reason that the witnesses are from Afghanistan. Thus, there is no certainty about the period within which the next witness would be examined.

5) In the circumstances, though the applicant is Afghanistan national, I am of the opinion that considering the above referred facts, the applicant be released on bail. There is no flight risk as the passport was seized by the police long back.

6) The learned APP while opposing the application has stated that if the applicant is released on bail, he may not be available for trial. I am of the opinion that the said apprehension can be addressed by imposing certain stringent conditions. Accordingly, I pass the following order.

ORDER

(i) The Bail Application is allowed;

(ii) It is directed that the Applicant shall be released on bail in Crime No. 425 of 2018 registered with Kondhawa Police Station, Pune, for the offences punishable under Sections 302, 307, 323 and 504 read with Section 34 of the Indian Penal Code, 1860 and Section 37(1) read with Section 135 of the

Maharashtra Police Act, 1951, on furnishing PR. Bond of Rs.25,000/- (Rupees Twenty Five Thousand) with one solvent surety in the like amount;

iii The applicant shall attend the said Police Station every Saturday between 10.00 am to 11.00 am, till the conclusion of the trial except on the date of trial;

iv. The Applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case, as also not tamper with the evidence;

v. Liberty is granted to the State to apply cancellation of bail if the applicant commits similar offence.;

vi. The Applicant shall attend the trial before the Trial Court regularly on every date unless exempted by the Trial Court for any reason.

vii. Application stands disposed of, accordingly.

[ANIL S. KILOR, J.]