



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO. 8 OF 2025

Mahommad Shakail Mahommad Naser
Age : 39 years, Occupation : Business,
R/o. Pankaj Nagar, Dhanegaon, Nanded,
Taluka and District Nanded.

... Applicant
[Orig. Accused]

Versus

The State of Maharashtra,
Through the CIDCO Police Station,
Taluka and District Nanded.

... Respondent

.....
Mr. Amit S. Deshpande, Advocate for the Applicant.
Mr. P. K. Lakhotiya, APP for Respondent-State.

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CORAM : ABHAY S. WAGHWASE, J.

Reserved on : 24.04.2025

Pronounced on : 25.04.2025

ORDER :

1. Applicant seeks grant of regular bail on account of his arrest in crime no. 0738 of 2023 registered at Police Station Nanded Rural, District Nanded for offence punishable under Section 302 r/w 34 of IPC.

2. Learned counsel pointed out that applicant is arrested in above crime on 17.10.2023 and since then he is behind bars. That, there are allegations that in the backdrop of murder which took place 15 years

back, as a revenge, deceased, who was acquitted, was done to death. There are allegations of assault by means of cricket bat. Cause of death is head injury. Now, since 18 months, applicant is behind bars. Though case is committed, charge is not framed and further process of evidence is also not commenced. Further, as no recovery or discovery is to be made, he urges for grant of bail.

3. Learned APP opposed on the ground that serious offence is committed. That, there is eye witness account. Deceased was mercilessly assaulted by means of wooden bat, that too on head and face. There are witnesses who have seen the occurrence. Deceased allegedly suffered 9 injuries and hence, bail is opposed.

4. Heard. Perused the FIR dated 17.10.2023 by one Ahmedkhan. He reported that on 16.10.2023 around 5.30 p.m., he learnt that his maternal uncle was assaulted by someone and therefore, he went there and found his uncle Shaikh Babu lying in the pool of blood with several injuries on face. He reported that, 15 years back, son of paternal aunt of his mother, namely Md. Naser Md. Maulana was murdered and in that case, his two brothers and uncle Sk. Babu were made accused. However, they came to be acquitted. Getting annoyed by the acquittal, it is alleged that, sons of Md. Naser, namely, Md.

Shakil (present applicant) and Md. Bilal, with the help of Sk. Najir Iqbal, connived and when informant's uncle Sk. Babu was going on motorcycle, he was assaulted by means of bat and hence the report.

5. Apparently, as pointed out, FIR is of 17.10.2023. Applicant is shown to be arrested on the same day i.e. on 17.10.2023. Investigation is over and charge sheet is said to be filed way back on 11.01.2024 itself. Statement is made across the bar that, applicant is behind bars since 18 months and trial has not commenced. This statement is not countered by learned APP. As applicant is behind bars since 18 months and there are no immediate prospects of matter going for trial, applicant deserves relief as prayed. Hence, I proceed to pass the following order:

ORDER

- I. The application is allowed.
- II. Applicant be released on bail in connection with Crime No. 0738 of 2023 registered at Police Station Nanded Rural, District Nanded, on executing Personal Bond of Rs. 15,000/- with one surety in the like amount, on the following conditions:
 - [a] The applicant shall not tamper prosecution evidence.
 - [b] The applicant shall not enter the vicinity where informant, his family and near and dear ones reside, till conclusion of trial.

[c] The applicant shall not leave the area of jurisdiction of the concerned police station till conclusion of trial, except for attending court dates.

[d] The applicant shall attend the concerned police station twice in every week i.e. on every Monday and Thursday till commencement of trial and thereafter, shall regularly attend each and every effective date before the trial court.

[ABHAY S. WAGHWASE, J.]

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