



**IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD**

940 BAIL APPLICATION NO. 784 OF 2025

Shaikh Shaharukh Shaikh Iqbal Alias Baba Alias Ghodewala

VERSUS

The State Of Maharashtra

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Mr. Prashant Prabhakar Giri a/w Mr. Kasod Yogesh Ganesh, Advocate
for Applicant

Mr. R. S. Wani, APP for Respondent/State

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CORAM : SANJAY A. DESHMUKH, J.

DATE : 16.10.2025

PER COURT :-

1. Heard.

2. This is an application for grant of regular bail under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023, in connection with Crime No.281 of 2024, registered at Wajirabad Police Station, Nanded, District Nanded, for the offences punishable under Section 302 of the Indian Penal Code, 1860.

3. The learned advocate for the applicant pointed out the report in which the informant averred that he is serving as a Police Head Constable attached to Vahirabad Police Station, Nanded. On 19.06.2024, he came to know that the dead body of a man was lying in the Lingayat Crematory. He, along with his colleague, went to the spot and found a

man lying dead aged about 25 to 30 years old. The deceased had sustained injuries on his face, chest, and other parts of the body. He called the panchas drawn up the inquest panchnama and sent the dead body for post-mortem examination. Thereafter, a report was lodged against an unknown person.

4. During investigation, it was revealed that on 17.06.2024, at about 8:30 p.m., two days prior to the FIR, a quarrel took place between the victim and the applicant Shahrukh, during which Shahrukh was injured. Thereafter, Shahrukh called Shaikh Kalim @ Kallu Shaikh Tajoddin, Md. Aayan S/o Md. Rafique, Naif Abdul Jabbar @ Pappu S/o Naim Abdul Gafar, Moin Abdul Sadeq Patel, Abdul Razak S/o Abdul Sattara and Amerkhan Rafikhan near the Nanded Railway Station. They assaulted the victim with kicks and dragged him in front of the Railway Reservation Office and then took him in an auto rickshaw. They assaulted the victim with wooden sticks and bricks and his body was later thrown in the graveyard. They recorded a video of that incident and tried to destroy the evidence by hiding their blood-stained clothes. All the accused have been charge-sheeted for the offence of murder punishable under Section 302 of the IPC and other related offences.

5. The learned advocate for the applicant submitted that the applicant is falsely implicated in the crime. The applicant has roots in the

society and he will not flee away from the trial. There is no material evidence against the applicant. The charge sheet has already been filed and further custody of the applicant is not necessary. It is submitted that the co-accused Shaikh Kalim @ Kallu Shaikh Tajoddin has already been released on bail by this Court in Bail application No.198 of 22025 by an order dated 21.03.2025. It is submitted that the reasons of arrest were not communicated to the applicant. On the ground of parity as well as on the ground that the reasons for arrest were not communicated to the applicant, it is prayed that the applicant be released on bail. In support of his submission, the learned advocate for the applicant relied upon the following authorities:

- a. ***Vihan Kumar Vs. The State of Haryana & Another, arising out of SLP (Crl.) 13320 of 2024, decided on 07.02.2025,*** in which it is held that if the procedure under Section 50A of the Code of Criminal Procedure, requiring the communication of the reasons for arrest to the accused is not followed, the accused is entitled for bail.
- b. ***Mahesh Pandurang Naik Vs. The State of Maharashtra & Another,*** in Writ Petition (ST) No.13836 of 2024 in Interim Application (ST) No.14837 of 2024, order dated 18.07.2024, in which it is held that for the reasons recorded above, since the arrest of the petitioner is not compliant with clause (1) of Article 22 of the Constitution of India and Section 50 of the Code of Criminal Procedure, 1973 and the position of law,

as laid down by the Hon'ble Apex Court, to the above effect and it being binding on all the Court, it is declared that the arrest of the Petitioner in connection with F.I.R. No.68 of 2020 registered with Malad Police Station is illegal and in gross violation of his fundamental right.

6. The learned APP for the State strongly opposed the application and submitted that there is a statement of an auto rickshaw driver who has stated that he heard the conversation of the accused persons while they were sitting in his rickshaw, discussing how to kill the victim and beat him near the crematory. Accordingly, they executed their plan and eliminated the victim. It is submitted that if the applicant is released on bail, he will certainly pressurize the prosecution witnesses and tamper with the evidence. It is therefore prayed that the application be rejected.

7. Perused the charge sheet, particularly the statements of the witnesses. There is a statement of one auto rickshaw driver who has stated that he heard the conversation of the accused persons while they were sitting in his rickshaw, discussing how to kill the victim and how to assault him near the crematory. Accordingly, they executed their plan and eliminated the victim. They recorded a video of the incident. The videograph of the incident shows the presence of the applicant at the spot, indicating his active participation in the offence. At the instance of the applicant, a wooden log

and bricks used in the offence have been recovered. There are also statements of witnesses recorded under Section 164 of the Code of Criminal Procedure, wherein they have stated in detail as to the involvement of the applicant in the crime. As per the statements and the recording of the incident, it is revealed that a quarrel had taken place between the applicant and the deceased at the Railway Station. The applicant initially assaulted the victim and thereafter, other co-accused persons joined him and further beat the victim. Thereafter, they took the victim in an autorickshaw and thrown his dead body in the graveyard. These circumstances clearly indicate that the applicant is involved in a serious offence. The applicant is seen in the video recording at the time of the incident.

8. As far as the contention of the learned advocate for the applicant regarding non-communication of the reasons for arrest is concerned, as held by this Court in ***Gaurav Appa Naiknaware vs. The State of Maharashtra in Bail Application No.1165 of 2025*** by order dated 26.09.2025, and by the Hon'ble Supreme Court in ***The State of Karnataka vs. Sri Darshan, reported in 2025 INSC 979***, decided on 14.08.2025, unless the applicant demonstrates that prejudice was caused to him due to non-communication of the grounds of arrest, he is not entitled to bail. In the present case, the applicant has not established that such grounds were not communicated to

him, nor did he make any immediate complaint to the Magistrate at the time of his production.

9. As far as the ground of parity is concerned, the role of the present applicant is serious than that of the co-accused who has been granted bail by this Court as he assaulted deceased with intention to kill with plan.

10. Considering all these aspects, the application deserves to be rejected. The Bail Application is rejected.

[SANJAY A. DESHMUKH, J.]

HRJadhav