



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

**913 BAIL APPLICATION NO. 1498 OF 2025**

**ASHPAK YUNUS SHAIKH  
VERSUS  
THE STATE OF MAHARASHTRA**

...

Mr. S. S. Gangakhedkar a/w Mr. D. S. Patil, Advocate for Applicant  
Mr. K. K. Naik, APP for Respondent/State

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**CORAM : SANJAY A. DESHMUKH, J.**

**DATE : 03.10.2025**

**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.467 of 2024 registered at Paithan Police Station, District Chhatrapati Sambhajinagar, for the offences punishable under Section 109, 308(5), 115, 352, 351(2) and 3(5) of the Bharatiya Nyaya Sanhita, 2023 and Sections 4 and 25 of the Arms Act.
3. The learned advocate for the applicant pointed out the report in which the informant averred that on 11.12.2024, he was at his tea shop when the present applicant along with co-accused Arbaz Rashid Shaikh came there holding an iron rod and a sword in their hands. The applicant was holding a sword. He abused the informant and said that he

wanted Rs.2000/- from the counter otherwise he would kill him with the iron rod. When the informant refused to pay, Arbaz assaulted him on his head with the sword. The informant somehow managed to save himself and when Arbaz tried to assault him again with the iron rod, other persons sitting in the shop rescued the informant. At that time, applicant kicked the informant and threatened him saying, “If you want to continue your business, you will have to pay me Rs.5000/- every month, otherwise I will kill you.” The applicant, showing his sword, said, “You are defaming us; even if you don’t pay us money, I will surely kill you one day.” Thereafter, both of them left that place. The informant further stated that on 2–3 earlier occasions, both the accused had come to his shop, threatened him to pay extortion money, assaulted him, and forcibly took the money kept in the hotel counter. The applicant and co-accused have been threatening the shopkeepers in that area by demanding money, usually while armed with weapons. They have created fear in the locality and therefore no one dares to lodge a report against them. But after repeated harassment with courage the informant lodged the report on the same day against the applicant and the co-accused.

4. The learned advocate for the applicant submitted that the co-accused, Arbaz Shaikh, has already been released on regular bail by this Court vide order dated 12.06.2025 in Bail Application No.652 of 2025. He

further submitted that though the applicant has criminal antecedents, his detention order has been set aside by this Court in Criminal Writ Petition No.1021 of 2024 dated 09.09.2024. The applicant has roots in the society and he will not flee away from the trial. The trial will take a long period. It is lastly prayed to grant bail to the applicant on the ground of parity.

5. The learned advocate for the applicant has been relied upon the following authorities:

(i) ***Maulana Mohd. Amir Rashadi Vs. State of U.P. and Anr., reported in 2012 Cri. L. J. 1444***, wherein in paragraph No.6 the Hon'ble Supreme Court held as under:

“6. It is not in dispute and highlighted that the second respondent is a sitting Member of Parliament facing several criminal cases. It is also not in dispute that most of the cases ended in trial. As observed by the High Court, merely on the basis of criminal antecedents, the claim of the second respondent cannot be rejected. In other words, it is the duty of the Court to find out the role of the accused in the case in which he has been charged and other circumstances such as possibility of fleeing away from the jurisdiction of the Court etc.”

(ii) ***Prabhakar Tewari Vs. State of Uttar Pradesh and Anr., reported in AIR Online 2020 SC 96***, wherein in paragraph No.7 the Hon'ble Supreme Court held as under:

“7. On considering the submissions of the learned counsel for the parties. Having regard to the circumstances of this case, in our opinion, there has been no wrong or improper exercise of discretion on the part of the

*High Court in granting bail to the accused. The factors outlined in the case of Mahipal (Supra) for testing the legality of an order granting bail are absent in the order impugned. The materials available do not justify arriving at the conclusion that the order impugned suffers from non-application of mind or the reason for granting bail is not borne out from a prima-facie view of the evidence on record. The offence alleged no doubt is grave and serious and there are several criminal cases pending against the accused. These factors by themselves cannot be the basis for refusal of prayer for bail. The High Court has exercised its discretion in granting bail to the accused Vikram Singh upon considering relevant materials. No ex-facie error in the order has been shown by the appellant which would establish exercise of such discretion to be improper. We accordingly sustain the order of the High Court granting bail. This appeal is dismissed.”*

6. The learned APP for the State strongly opposed the application and submitted that six criminal cases are pending against the applicant, details of which are as under:

| Sr. No. | Police Station | Crime No. and Sections                              | Date of Registration | Disposal Status     |
|---------|----------------|-----------------------------------------------------|----------------------|---------------------|
| 1.      | Paithan        | 33/2020, Sections 457 and 380 of IPC                | 02.02.2020           | Subjudice           |
| 2       | Paithan        | 37/2020, Sections 457 and 380 of IPC                | 06.02.2020           | Subjudice           |
| 3       | Paithan        | 203/2021, Sections 324, 323, 504 and 34 of IPC      | 24.05.2021           | Subjudice           |
| 4       | Paithan        | 283/2022, Sections 392 and 34 of IPC                | 08.08.2022           | Subjudice           |
| 5       | Paithan        | 201/2023, Sections 307, 384, 504 and 506 of IPC     | 06.07.2023           | Under investigation |
| 6       | Paithan        | 07/2024, Sections 307, 384, 323, 504 and 506 of IPC | 10.01.2024           | Under investigation |

It is further submitted that the applicant is also prosecuted under Section 110 (e)(g) of the Code of Criminal Procedure and under Section 3(1) of the M.P.D.A. Act. The applicant has serious criminal antecedents. On the contrary, there were no criminal antecedents against the co-accused, who has been released on bail, as observed by this Court in paragraph 5 of Bail Application No.652 of 2025. Considering the serious nature of the crimes and the applicant's past conduct, the learned APP submitted that if the applicant is released on bail, he will certainly pressurize the prosecution witnesses and tamper with the evidence and commission of similar nature of crime again at the hands of the applicant cannot be ruled out. It is also submitted that the residents of Gazipura, Paithan city District Chhatrapati Sambhajnagar are living under fear due to his such activities. It is lastly prayed to reject the application.

7. Perused the charge-sheet, particularly the report, the statements of witnesses, and the injury certificate of the informant, which shows that the informant sustained blunt trauma to the right arm and lower back caused by a hard and blunt object. The applicant has serious criminal antecedents and is being prosecuted in five criminal cases. As pointed out by the learned APP, the applicant has also been prosecuted in Chapter Cases and was subjected to preventive action under the M.P.D.A. Act, which was later set aside by this Court. However, despite the cancellation of the M.P.D.A.

action, the applicant's criminal antecedents remain serious. While granting bail to the co-accused, this Court, in paragraph 5 of order, observed that the co-accused had no prior criminal antecedents. The present applicant, on the other hand, is involved in offences of a serious crime and has created terror in the Paithan city, causing distress to several shopkeepers by his serious criminal acts. In such circumstances, the applicant is certainly not entitled for bail either on the ground of parity or in law though he has roots in the society. The Hon'ble Supreme Court in the cases of ***Maulana Vs. State of U.P. (supra)*** and ***Prabhakar Vs. State of U.P. (supra)*** has held that even in the presence of criminal antecedents, bail can be granted. However, in the case in hand, the applicant has serious criminal antecedents and has committed similar offences in the same area between 2020 to 2024. He created terror in that area. There is possibility of commission of similar nature of crime again on the part of the applicant. In view of these distinguishing facts and the applicant's criminal background and his overt acts, the law laid down in ***Maulana (supra)*** and ***Prabhakar (supra)***, are not helpful to the applicant and hence cannot be relied upon. Considering all these aspects, the application deserves to be rejected and it is rejected accordingly.

[ SANJAY A. DESHMUKH, J. ]

HRJadhav