

AGK

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

BAIL APPLICATION NO.259 OF 2024

Rizwan Md. Yunus Qureshi ... Applicant

V/s.

The State of Maharashtra ... Respondent

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Ms. Jai V. Kanade (appointed as Legal Aid) with Ms. Prachiti Naik for the applicant.

Mrs. Megha S. Bajoria, APP for the respondent-State.

Mr. Nitin D. Sawant, PSI, Bangur Nagar Police Station, Mumbai, is present.

CORAM : AMIT BORKAR, J.

DATED : JULY 10, 2025

P.C.:

1. By this application filed under Section 439 of the Code of Criminal Procedure, 1973, the applicant seeks regular bail in connection with Crime Register No. 67 of 2021, registered with Bangur Nagar Police Station, for offences punishable under Sections 302, 307, 504 and 506(2) of the Indian Penal Code, 1860.

2. As per the case of the prosecution, on 1st March 2021, at about 12.30 a.m., the applicant is alleged to have assaulted the deceased by giving fist blows and also hitting him with shoes on his head, due to which the deceased succumbed to injuries. The applicant came to be arrested on the same day i.e., 1st March 2021. The learned Advocate appointed to represent the applicant

pointed out that the cause of death is shown as head injuries. She submitted that, except for the medical record showing the cause of death and an allegation of assault, there is no other medical document on record specifying the exact nature or number of injuries sustained by the deceased. It was argued that at this stage, it is difficult to come to a definitive conclusion that the alleged act of hitting with fists and shoes on the head alone was the proximate cause of death. She further submitted that the applicant is in judicial custody for more than four years and, considering the present pace of trial, it is unlikely that the trial will conclude in the near future. She therefore prayed that the applicant be released on regular bail.

3. On the other hand, the learned APP opposed the bail application. He submitted that there are eyewitnesses to the incident who have categorically stated that the applicant assaulted the deceased, and as a result, the deceased died. It was submitted that even though the death was not instantaneous, that fact alone does not reduce the seriousness of the offence alleged. The nature of the assault, as described by the prosecution witnesses, clearly indicates that the applicant targeted the head of the deceased during the assault, and the head injury ultimately caused his death. The learned APP also submitted that the applicant has as many as eight criminal antecedents, out of which four relate to offences affecting the human body. In view of the gravity of the allegations and the criminal background of the applicant, it was submitted that no case for grant of bail is made out.

4. I have carefully considered the rival submissions and perused the material placed on record. It is true that the prosecution case is that the applicant had assaulted the deceased with fists and shoes, and the cause of death is stated to be head injuries. However, at this stage, the prosecution has not placed on record any detailed medical evidence to clearly indicate the extent, nature, or number of injuries which could conclusively connect the alleged assault to the cause of death. The exact manner in which the assault led to the death would be a matter for trial. Moreover, the applicant has been in custody since 1st March 2021, i.e., for more than four years. The trial has not commenced meaningfully, and there is no likelihood of it concluding in the near future. Merely because the applicant has previous criminal cases cannot be a sole ground to deny bail in the present case, especially when the trial is likely to take considerable time and he cannot be kept behind bars indefinitely without conclusion of trial.

5. Considering the totality of circumstances and the fact that the applicant is in prolonged custody, a case is made out for grant of regular bail.

6. Hence, following order is passed:

- i) The bail application is allowed;
- ii) The applicant is directed to be released on regular bail in connection with Crime Register No.67 of 2021 registered with Bangur Nagar Police Station for offences punishable under Sections 302, 307, 504, 506(2) of the Indian Penal Code, 1860, upon furnishing a personal bond of Rs.25,000/-

(Rupees Twenty Five Thousand Only) with one or more solvent sureties in the like amount, to the satisfaction of the Trial Court, subject to the following conditions:

- a) The applicant shall report the Bangur Nagar Police Station on first Monday of every month between 10.00 a.m. to 12.00 noon, until further orders.
 - b) The applicant shall not enter the area of Bangur Nagar Police Station, save and except to report the Police Station once in a month.
 - c) The applicant shall not tamper with the evidence or attempt to influence any witness.
 - d) The applicant shall appear before the Trial Court on every date of hearing unless prevented by sufficient cause.
 - e) The applicant shall not leave the territorial jurisdiction of the Trial Court without prior permission.
 - f) The applicant shall not indulge in any criminal activity during the pendency of the trial.
 - g) Any breach of these conditions shall result in the prosecution moving for cancellation of bail before the Trial Court.
4. The bail application is allowed and disposed of.

(AMIT BORKAR, J.)