

Shabnoor

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

BAIL APPLICATION NO.2074 OF 2024

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Mohd Salman Naushad Khan ... Applicant
V/s.
The State of Maharashtra ... Respondent

**WITH
BAIL APPLICATION NO.1925 OF 2024**

Arul Rosari Fernandes ... Applicant
V/s.
The State of Maharashtra ... Respondent

Mr. Rakesh Jadhav, for Applicant in both the applications.

Ms. Megha S. Bajonia, APP for State – respondent in both the applications.

CORAM : AMIT BORKAR, J.

DATED : JUNE 10, 2025

P.C.:

1. These are two bail applications filed under Section 439 of the Code of Criminal Procedure, 1973, in connection with Crime Register No. 399 of 2023 registered with Antop Hill Police Station, Mumbai. The applicants are seeking bail in a case where offences have been registered under Sections 302 (murder), 307 (attempt to murder), 120-B (criminal conspiracy), 504 (intentional insult to provoke breach of peace), 506 (criminal intimidation) read with Section 34 (common intention) of the Indian Penal Code, 1860.

2. As per the prosecution's version, the incident occurred on 25th October 2023, during the Devi idol immersion procession. A dispute arose over the immersion arrangements, following which a quarrel broke out. It is alleged that in the said incident, the complainant, and his friend were attacked. The co-accused Anand is alleged to have stabbed the complainant and one Sharad Chaudhary with a knife, causing serious injuries. The specific role attributed to the present applicants, as per the charge sheet, is that they assaulted the complainant and another person with fists and blows. The Sessions Court had earlier rejected their bail applications by observing that the applicants were prima facie involved in the commission of the offences.

3. Learned counsel appearing on behalf of the applicants has taken this Court through the material placed in the charge sheet. It is submitted that the only allegation against the applicants is that they beat the complainant and another individual with fists and hands. There is no allegation or material suggesting that the applicants used any weapon or inflicted grievous injury. It is further pointed out that the cause of death, as per the charge sheet and medical documents, is due to injuries caused by a knife, allegedly used by co-accused Anand. Applicant Arul Fernandes has been in custody since 26th October 2023, and Applicant Mohd Salman was arrested later, on 13th December 2023. It is submitted that the investigation is complete, and the trial is likely to take considerable time. Hence, it is prayed that the applicants may be released on bail, subject to appropriate conditions.

4. On the other hand, the learned Additional Public Prosecutor

has opposed the applications and has invited the attention of the Court to the statements of witnesses and other materials forming part of the charge sheet. It is contended that the incident is a result of a planned assault during a public procession, leading to the death of one person and serious injuries to another. The applicants are said to have actively participated in the incident, and the nature of the offence is grave. As regards Applicant Mohd Salman, it is submitted that he was apprehended from Lucknow, which suggests the possibility of absconding or evading the judicial process. Hence, it is submitted that no case is made out for the grant of bail at this stage, particularly when the trial is yet to commence.

5. After careful consideration of the entire material placed on record, including the charge sheet and statements of witnesses, it is evident that the incident resulted in the unfortunate death of a person due to injuries sustained during the assault. However, a prima facie assessment of the role specifically attributed to the present applicants shows that their involvement was limited to causing injuries to the complainant and another person by fist and blows. There is no allegation of use of any deadly weapon by these applicants.

6. The material on record further indicates that the co-accused Anand is alleged to have inflicted injuries with a knife which are stated to have led to the death of the victim. The applicants herein do not appear to have played a direct role in causing fatal injuries.

7. It is further seen that Applicant Arul Rosari Fernandes has

been in custody since 26th October 2023, and Applicant Mohd Salman Naushad Khan was arrested later, on 13th December 2023. The charge sheet has already been filed, and as submitted by the learned counsel for the applicants, the trial is likely to conclude in the near future. There is no material on record to show that either of the applicants has tampered with evidence or misused liberty in any manner. Taking an overall view of the role attributed to the applicants, the period of incarceration undergone, and the principle that bail is the rule and jail is the exception, I am of the view that the applicants deserve to be released on bail, subject to appropriate conditions to secure their attendance at trial and to safeguard the interests of justice.

8. In view of the above discussion, the following order is passed:

(a) The Bail Applications are allowed.

(b) The applicants, Arul Rosari Fernandes and Mohd Salman Naushad Khan, shall be released on bail in connection with C.R. No. 399 of 2023 registered with Antop Hill Police Station, on each of them executing a personal bond of ₹25,000/- (Rupees Twenty-Five Thousand Only), with one or more solvent sureties in the like amount, to the satisfaction of the Trial Court, and subject to the following conditions:

(c) The applicants shall not tamper with the evidence or attempt to contact, influence, threaten, or intimidate any prosecution witness in any manner.

(d) The applicants shall attend the Trial Court regularly on each date of hearing unless prevented by sufficient cause, which shall be communicated in advance to the satisfaction of the Trial Court.

(e) The applicants shall not leave the territorial jurisdiction of the Trial Court without its prior written permission.

(f) The applicants shall not commit any offence or indulge in any criminal activity during the pendency of the trial.

(g) At the time of furnishing surety, the applicants shall provide their current residential address and mobile number to the Investigating Officer and the concerned Trial Court, and shall inform the Court in writing of any change in address or contact details during the pendency of the case.

9. The Bail Applications are accordingly disposed of.

(AMIT BORKAR, J.)