

AGK

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

BAIL APPLICATION NO.3182 OF 2024

Sabir Sayyed Ali Shah	... Applicant
V/s.	
The State of Maharashtra	... Respondent

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Ms. Reshma Kakade for the applicant.

Ms. Rajashree V. Newton, APP for the respondent-State.

Mr. Ravindra Kelkar, PSI, V.B. Nagar Police Station, is present.

CORAM : AMIT BORKAR, J.

DATED : JUNE 27, 2025

P.C.:

1. This is a bail application filed by the applicant under Section 439 of the Criminal Procedure Code 1973, seeking his release on regular bail in connection with Crime Register No. 92 of 2023, registered with V.B. Nagar Police Station, Mumbai. The applicant has been booked for offences punishable under Sections 304(2), 358, and 504 read with Section 34 of the Indian Penal Code, 1860.

2. It is the case of the applicant that he belongs to a poor family and is not well-versed with legal proceedings. He has further stated that he is the sole earning member of his family and his continued incarceration is causing hardship to his dependents. The incident in question, according to him, was not premeditated or intentional but was a sudden mishap that occurred without any

motive. As per the narration, the applicant had asked for a cigarette at a place referred to as “Tadi Madi Kendra”, whereupon the deceased allegedly slapped the applicant first. In response, the applicant also slapped the deceased, after which the deceased became unconscious and suffered a seizure. His lips and teeth got clenched, and bleeding started from his mouth. While being taken to the hospital, he was declared dead. The applicant thus contends that the case has been wrongly registered as one of culpable homicide.

3. Learned counsel appearing for the applicant submits that even as per the case of the prosecution, the incident is not one involving the use of any weapon. It is further pointed out that Clause 17 of the post-mortem report shows only a single contusion of 2 cm by 1 cm on the lower limb of the deceased. The exact cause of death, it is submitted, is still under investigation and not conclusively established. It is also brought to the Court’s attention that the Section applied against the applicant is 304(2), which pertains to culpable homicide not amounting to murder under the Indian Penal Code, 1860, and does not fall within the category of the gravest offences.

4. The applicant is stated to have been arrested on 25 April 2023. It is not disputed that charges are yet to be framed in the matter. The prosecution has placed reliance on statements of more than 20 witnesses. Considering the number of witnesses and the stage of the proceedings, it appears unlikely that the trial would conclude in the near future. The applicant has been in custody for more than one year as of now.

5. On the other hand, the learned Additional Public Prosecutor has opposed the bail application. It is submitted that there is CCTV footage and statements of eye-witnesses available on record, which clearly indicate the presence and involvement of the applicant in the incident. It is thus contended that sufficient material is available on record to establish the commission of offence and that the application be rejected.

6. Upon considering the submissions made on behalf of the applicant and the prosecution, and after going through the material placed on record, this Court is of the view that the custodial interrogation of the applicant is no longer necessary. The incident, *prima facie*, appears to have occurred in the heat of the moment and without any premeditated intent or use of any deadly weapon. The medical evidence, as reflected in the post-mortem report, shows only a minor external injury on the lower limb. The exact medical cause of death is still not conclusively certified.

7. It is not disputed that the applicant is in custody since 25 April 2023 and charges are yet to be framed. The prosecution has cited more than 20 witnesses, and therefore, the trial is not likely to conclude in the near future. Continued incarceration of the applicant, in the facts of this case, would not serve any useful purpose.

8. This Court is also conscious of the fact that the offence alleged is under Section 304(2), and not under Section 302 of the IPC. The incident appears to be an unfortunate outcome of a sudden quarrel with no prior enmity or planning.

9. Further, the applicant has no serious criminal antecedents and is stated to be the sole earning member of his family. There is no material to show that if released on bail, he will misuse the liberty or attempt to tamper with prosecution evidence or influence witnesses.

10. Hence, in the interest of justice and considering the overall circumstances, this Court is inclined to grant bail to the applicant with suitable conditions.

11. Hence, following order:

- i) The bail application is allowed;
- ii) The applicant is directed to be released on bail in connection with Crime Register No.92 of 2023 registered with V.B. Nagar Police Station, Mumbai for the offences punishable under Sections 304(2), 358, 504 read with 34 of the Indian Penal Code, 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 V.B. Nagar Police Station on the first Monday of every month between 10.00 a.m. and 12.00 noon, until further orders;
 - b) The applicant shall not tamper with the evidence or attempt to influence any witness.
 - c) The applicant shall appear before the Trial Court on

every date of hearing unless prevented by sufficient cause.

d) The applicant shall not leave the territorial jurisdiction of the Trial Court without prior permission.

e) The applicant shall not indulge in any criminal activity during the pendency of the trial.

f) Any breach of these conditions shall result in the prosecution moving for cancellation of bail before the Trial Court.

12. The bail application stands disposed of in above terms.

(AMIT BORKAR, J.)