

Ajay

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

CRIMINAL BAIL APPLICATION NO. 5389 OF 2024

Asif Mohd. Ali Shaikh	Applicant /
	.. Accused No.7
Versus	
The State of Maharashtra	.. Respondent

**WITH
CRIMINAL BAIL APPLICATION NO. 1243 OF 2024**

Kishan Vijay Bhosale	Applicant /
	.. Accused No.3
Versus	
The State of Maharashtra	.. Respondent

**WITH
CRIMINAL BAIL APPLICATION NO. 3485 OF 2024**

Amir Rehamat Baig @ Kalu	Applicant /
	.. Accused No.10
Versus	
The State of Maharashtra	.. Respondent

**WITH
CRIMINAL BAIL APPLICATION NO. 5269 OF 2024**

Salman Hussain Shaikh @ Salman Batla	Applicant /
	.. Accused No.12
Versus	
The State of Maharashtra	.. Respondent

**WITH
CRIMINAL BAIL APPLICATION NO. 1597 OF 2025**

Sunny Rajesh Mahadik	Applicant /
	.. Accused No.9
Versus	
The State of Maharashtra	.. Respondent

WITH
CRIMINAL BAIL APPLICATION NO. 4324 OF 2024

Sameer Mumtaj Ahmad Ansari

Applicant /
.. Accused No.11

Versus

The State of Maharashtra

.. Respondent

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- Mr. Ravi Dwivedi, Advocate h/for Mr. Sainath S. Baji, Mr. Satish Shukla and Mr. Aditya Gole, Advocates for Applicant in Bail Application Nos.5389 of 2024, 5269 of 2024 and 4324 of 2024.
- Mr. Harshad Meshram, Advocate for Applicant in Bail Application No.1597 of 2025.
- Mr. Amrish Salunke a/s. Ms. Shraddha Shinde, Durgesh Pandey and Ms. Tanvi Gaikwad, Advocates for Applicant in Bail Application Nos.1243 of 2024 and 3485 of 2024.
- Ms. Rajeshree V. Newton, APP for Respondent – State in Bail Application Nos.5389 of 2024, 1243 of 2024, 3485 of 2024 and 5269 of 2024.
- Ms. Mahalakshmi Ganapathy, APP for Respondent – State in Bail Application No.1597 of 2025.
- Mr. Balraj B. Kulkarni, APP for Respondent – State in Bail Application No.4324 of 2024.
- Mr. Waman K. Thakare, API – Dharavi Police Station present.

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CORAM : MILIND N. JADHAV, J.

DATE : APRIL 22, 2025.

P.C.:

1. Heard Mr. Dwivedi, learned Advocate for Applicant in Bail Application Nos.5389 of 2024, 5269 of 2024 and 4324 of 2024; Mr. Meshram, learned Advocate for Applicant in Bail Application No.1597 of 2025; Mr. Salunke, learned Advocate for Applicant in Bail Application Nos.1243 of 2024 and 3485 of 2024; Ms. Newton, learned APP for Respondent – State in Bail Application Nos.5389 of 2024, 1243

of 2024, 3485 of 2024 and 5269 of 2024; Ms. Ganapathy, learned APP for Respondent – State in Bail Application No.1597 of 2025 and Mr. Kulkarni, learned APP for Respondent – State in Bail Application No.4324 of 2024.

2. These Applications under Section 439 of the Code of Criminal Procedure, 1973 seek Regular Bail in connection with C.R.No.265 of 2020 registered with Dharavi Police Station for the offences punishable under Sections 302, 307, 326, 324, 323, 504, 143, 144, 147, 148 and 149 of the Indian Penal Code, 1860 (for short “**IPC**”); Sections 4 and 25 of the Indian Arms Act, 1959 and Sections 37(1)(A) and 135 of the Maharashtra Police Act, 1951.

3. This is a group of 6 Bail Applications filed by 6 co-accused persons in connection with the same crime. Bail Applications are heard together. 1 out of the 6 Bail Applications namely Bail Application No.1597 of 2025 filed by Accused No.9 is at Serial No.6 of today’s main board. The same is heard alongwith the Bail Applications of the other co-accused persons at the request made by the Advocate Mr. Meshram appearing on behalf of the Applicant therein.

4. Briefly stated, First Information Report (for short ‘**FIR**’) is filed on 27.06.2020 pursuant to an incident in which the victim has lost his life. *Prima facie*, it is seen that after filing of the FIR 2 Accused persons namely Accused Nos.1 and 2 were arrested on the same day, 2

other co-accused persons namely Accused Nos.3 and 4 were arrested on the following day whereas rest of the other co-accused persons were arrested subsequently after a long hiatus of more than one year or two years. Reference to the same shall be given while considering the submissions made in the respective Bail Applications. There are total 12 Accused persons in the present case. 2 out of 12 Accused persons namely Accused Nos.5 and 8 have been enlarged on bail by Court due to the role attributed to them in the present crime.

5. In the present group of Bail Applications, Accused No.5 has filed Bail Application No.1243 of 2024; Accused No.7 has filed Bail Application No.5389 of 2024; Accused No.9 has filed Bail Application No.1597 of 2025; Accused No.10 has filed Bail Application No.3485 of 2024; Accused No.11 has filed Bail Application No.4324 of 2024 and Accused No.12 has filed Bail Application No.5269 of 2024.

6. Hearing of the aforesaid 6 Bail Applications is done together. Case of the prosecution is that on the date of incident a mob comprising of Accused persons attacked the victim due to previous enmity between them. In so far as use of dangerous weapon is concerned, it is prosecution case that Accused persons used sword and knife for inflicting fatal blows on the victim. On perusal of record it is seen that case of the prosecution is *prima facie* based on the version of the eye witnesses, but the nature of evidence is circumstantial is as

much as the specific role attributed to each of the Accused persons having inflicted the blows with the dangerous weapon on whom is *prima facie* unclear. Several of the Accused persons before me today, in support of their defence would make one common submission through their respective Advocates. They would submit that specificity and specific role attributed to the Accused persons is not delineated in the FIR neither it is emanating from any of the record of the prosecution case including the witness statements and therefore considering long incarceration of the Accused persons pending trial in the present case, their case should be considered on parity alongwith co-accused persons namely Accused Nos.5 and 8 who have been enlarged on bail by this Court.

7. I have heard the learned Advocates appearing for the respective Applicants and the learned prosecutors on behalf of the Respondent – State in each of the Applications and with their able assistance perused the record of the case.

8. At the outset, submissions made by the learned prosecutors which are in common need to be stated. According to the prosecution, present Bail Applications should be rejected primarily because of the gravity of the crime. Learned prosecutors have next submitted that since there is direct evidence available in the form of the witness statements of the eye witnesses to the incident in question and Accused

persons have also been captured in the CCTV footage near the incident spot coupled with 36 injuries inflicted on the victim leading to his death, this is *prima facie* good enough evidence for Court to conclude the gravity of crime and reject the plea of Applicants for bail.

9. Learned prosecutors have also argued and submitted that the weapons namely sickle (कोयता) and sword (तलवार) have been recovered from Accused Nos.7, 9 and 11 and in that view of the matter considering that some of the Accused persons also have several antecedents, there is every likelihood that if Accused persons are released on bail they will re-offend themselves and influence witnesses in the trial and tamper with evidence considering their background and hence Bail Applications of Applicants should be rejected.

10. In Bail Application No.1243 of 2024 pertaining to Accused No.3, it is seen that he was arrested on the following day of the incident. Prosecution has recorded 8 witness statements which are appended to the charge-sheet on which primarily reliance is placed by the prosecution. When the said witness statements are perused, it is seen that 2 out of the 8 witness have identified the presence of Accused No.3 at the incident spot on the date of the offence. Other 6 witnesses have not identified his presence. The 2 witnesses who have identified are the First Informant whose statement is appended at page No.37 of the Application and the second witness statement is

appended at page No.59 of the Application. It is seen that statement of the second witness appended at page No.59 is recorded 1 month after the date of incident which is *prima facie* done belatedly and when the said statement is read apart from identifying the name of Accused No.3 no specific role has been attributed by him to Accused No.3 and therefore the said statement becomes circumspect. It is argued by learned prosecutor that there are 12 antecedents against Accused No.3 and therefore it should be a material ground for rejecting his Application for bail. *Prima facie* I do not think so. Role of Accused No.3 according to prosecution case is based on the above *prima facie* grounds and therefore in my opinion the facet of long incarceration of Accused No.3 from 28.06.2020 pending trial and parity alongwith Accused Nos.5 and 8 entitles him to be released on bail.

11. In Bail Application No.5389 of 2024, it is seen that Accused No.7 is arrested on 10.07.2020 and is admittedly in long incarceration. He was arrested after 15 days after the date of incident solely on the basis of statement of Accused No.6 who has stated that Accused No.7 was part of the mob of the persons who committed the assault. Save and except this statement with no specific role having been assigned to Accused No.7, entitles his case to be considered for bail. In this regard, prosecution has argued that one weapon has been recovered from Accused No.7 as per the panchnama which is appended at page No.67 of the Application. Mere recovery of the weapon viz-a-viz the facet of

long incarceration of Accused No.7 in prison from 10.07.2020 pending trial, in my opinion cannot be a ground to deny bail.

12. In Bail Application No.1597 of 2025 pertaining to Accused No.9, learned Advocate Mr. Meshram has argued that as per prosecution case only 2 witnesses have named the presence of Accused No.9 at the incident spot. Both of them have stated that he was part of the mob who committed and carried out the assault without any specific role having been assigned by them or attributed by them to Accused No.9. It is seen that First Informant has named Accused No.9 to be part of the mob who carried out the assault and his statement is appended at page No.75 of the Application. However it is seen that the said statement was recorded 4 days after the incident and Accused No.9 was arrested 18 days after the date of incident. However, it is intriguing to see that the main eye witness whose statement is appended to the Application has not named the presence of Accused No.9 at the incident spot on the date of the incident. Once again considering the facet of long incarceration of Accused No.9 in prison pending trial and case of prosecution based on the aforesaid *prima facie* material, I am inclined to consider the release of Accused No.9 on bail.

13. In Bail Application No.3485 of 2024 pertaining to Accused No.10 it is argued by the learned Advocate that no specific role has

been attributed to Accused No.10 for inflicting any injury or blow on the victim. Learned Advocate would submit that Accused No.10 has no criminal antecedents whatsoever. He would submit that statement of one of the witness appended at page No.88 of the Application has been recorded 1 month and 9 days after the date of incident wherein the said witness has identified Accused No.10 to be part of the mob to have carried out the assault and the prosecution has conducted a TI parade 81 days thereafter for the purpose of identifying Accused No.10. He would submit that in the witness statements which are relied upon by the prosecution only 2 out of 8 witnesses have identified the presence of Accused No.10 at the scene of crime, but both of them have not assigned any specific role or attributed any specific role to Accused No.10. He would submit that 2 witness statements one appended at page No.80 and second appended at page No.82 of the Application have been recorded 4 days and 6 days after the date of incident and therefore this should be considered by the Court apart from the facet of long incarceration of Accused No.10 since 17.06.2021 which is the date of his arrest which is almost 1 year after the date of incident.

13.1. Having considered the above material and the delay in recording the witness statements as also the facet of long incarceration of the Accused No.10 in prison from 17.06.2021 pending trial, I am inclined to consider the Bail Application of Accused No.10 for releasing

him on bail.

14. In Bail Application No.4324 of 2024 pertaining to Accused No.11 it is seen that Accused No.11 was arrested 2 years after the date of incident on 15.06.2022. Role of Accused No.11 is identical and at par with Accused No.7 whose Bail Application has been considered by me in the present order. Witness statements who have identified Accused No.11 have merely stated that he was present in the mob which had carried out the assault. Prosecution has taken 2 years to arrest the Accused No.11 and even thereafter Accused No.11 has suffered incarceration for more than 2 years and 9 months.

14.1. Considering the above facet of his long incarceration and no specific role attributed to Accused No.11 save and except to state he was a part of the mob which carried out the assault and the facet of long incarceration pending trial entitles Accused No.11 to be released on bail.

15. In Bail Application No.5269 of 2024 pertaining to Accused No.12 it is seen that he was arrested on 24.06.2022 which is once again 2 years after the date of the incident. Accused No.12 was arrested on the basis of disclosure statement of Accused No.11 which is recorded 2 years after the date of incident. Once again no specific role has been attributed to Accused No.12 save and except to state that he was present in the mob who had carried out the assault. Save and

except this, there is no other specific incriminating material attributed to the role of Accused No.12. However considering the facet of his long incarceration pending trial for the past more than 2 years and 9 months in the above facts Accused No.12 has made out a case for grant of bail.

16. Having perused the record of the case and considered the rival submissions, on the grounds which are delineated herein above, the right of bail to Applicants before me cannot be denied in the facts of the present case on the basis of their long incarceration pending trial. Some of the Accused persons have been behind bars for more than 4 years and 10 months in prison pending trial. Charge has not been framed till date and there is no certainty that the trial would commence or be completed in the near foreseeable future. According to the prosecution and as per the charge-sheet filed it is intending to examine as many as 35 witnesses. Considering the uncertainty of the trial being commenced and even for that matter been completed in the near foreseeable future being a distinct impossibility, the case of Applicants is considered for bail.

17. In view of the above *prima facie* observations, Accused Nos.3, 7, 9, 10, 11 and 12 in CR.No.265 of 2020 registered with Dharavi Police Station are directed to be released on bail.

18. Hence, all 6 Bail Applications are allowed subject to the following terms and conditions:-

- (i) All six Applicants are directed to be released on bail on furnishing P.R. Bond in the sum of Rs.25,000/- each with one or two sureties in the like amount;
- (ii) Before their actual release from jail, Applicants shall furnish their address where they propose to reside after their release from jail to the concerned Police Station and also to the trial Court;
- (iii) After their release from jail, Applicants shall report to the Investigating Officer as and when called for;
- (iv) Applicants shall attend the trial Court on first Tuesday of every month between 11.00 a.m. and 1.00 p.m. to mark their presence. If the first Tuesday of the said month falls on a holiday and / or non Court working day, Applicants shall mark presence on the next working day;
- (v) Applicants shall co-operate with the conduct of trial and attend the trial Court on all dates unless specifically exempted and will not take any unnecessary adjournments, if they do so, it will entitle the

prosecution to apply for cancellation of this order;

(vi) Applicants shall not leave the State of Maharashtra without prior permission of the Trial Court;

(vii) Applicants shall not influence any of the witnesses or tamper with the evidence in any manner; and

(viii) In case of any infraction of the above conditions and / or two consecutive defaults in marking his attendance before trial Court, it shall attract the provisions of Section 439(2) of Cr.P.C. i.e. for cancellation of bail.

19. It is clarified that the observations made in this order are limited for the purpose of granting bail only and I have not made any observations on merits of the case. The trial shall be adjudicated on the strength of the evidence led and strictly on its own merits being uninfluenced with any of the *prima facie* observations made herein above in this order.

20. All Bail Applications are allowed and disposed.

[MILIND N. JADHAV, J.]

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