

AGK

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

BAIL APPLICATION NO.3666 OF 2024

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Jalaluddin Fariuddin Shah

... Applicant

V/s.

The State of Maharashtra

... Respondent

Mr. Ankush Dokhale with Mr. Pradeep Sawant,
Samrudha Ladbe, Vedastu Rane for the applicant.

Ms. Supriya Kak, APP for the respondent-State.

Mr. Hanmant Oulkar, PI, with Ms. Dipali Pawase, PSI,
RCF Police Station, Mumbai, are present.

CORAM : AMIT BORKAR, J.

DATED : AUGUST 7, 2025

P.C.:

1. Leave to amend to correct the name of the applicant. Amendment to be carried out forthwith.
2. The present application is filed by the applicant under Section 439 of the Code of Criminal Procedure, 1973, seeking his release on regular bail in connection with Crime Register No. 630 of 2023, registered with RCF Police Station, Mumbai. The applicant is alleged to have committed offences punishable under Sections 302, 323, and 504 of the Indian Penal Code, 1860.
3. As per the case of the prosecution, the informant resides with his family and is working as a labourer in BPCL company. On 29th October 2023, at around 4:00 a.m., the complainant received

a phone call from one Reshma, who is the sister of the deceased Afzal Shaikh @ Manoj. She informed him that Afzal had a quarrel with someone near Building No. 5. Upon receiving this information, the complainant immediately rushed to the backside of Buildings No. 5 and 6, where he noticed that a crowd had gathered. The complainant was informed by those present that two persons, namely Gajya and Pintu, who resided in the same building, had taken Afzal to Shatabdi Hospital for medical treatment. When the complainant reached the hospital, he was informed that his brother Afzal Shaikh @ Manoj had succumbed to his injuries.

4. Upon further inquiry with Gajya and Pintu, the complainant was told that the incident occurred at around 2:45 a.m. when Afzal was watching a game of cards. At that time, the present applicant, Jalaluddin Fariduddin Shah, came there and began abusing Afzal. When Afzal questioned the reason for the abuse, the applicant is alleged to have assaulted him, first by slapping him under the ear, then grabbing his waist and forcefully pushing him, causing Afzal to fall backward. His head hit the ground with force, due to which he sustained fatal injuries. It is alleged that immediately after the incident, the applicant fled the spot. On the basis of these allegations, the FIR came to be registered.

5. Learned counsel appearing for the applicant submitted that the prosecution's own version indicates that the applicant merely pushed the deceased, leading to his accidental fall. It is submitted that the post-mortem report does not conclusively determine the cause of death and states that the opinion is reserved. Although a

contusion on the kidney is noted, there is no conclusive finding regarding fatal injury caused directly by the applicant with intention or knowledge. It is further submitted that the applicant was arrested on the same day, i.e., 29th October 2023, and he does not have any prior criminal record. Hence, it is argued that the applicant does not pose any threat to society and deserves to be released on regular bail.

6. On the other hand, learned APP strongly opposed the grant of bail. It was argued that the offence alleged is grave in nature and has resulted in the loss of human life. The learned APP submitted that while the exact manner in which the incident occurred will be evaluated during the trial, the current stage does not warrant the release of the applicant, considering the seriousness of the offence and the short duration of custody undergone. Hence, it was prayed that the bail application be rejected.

7. I have carefully considered the submissions of both sides and gone through the material on record. The incident in question took place on 29th October 2023. The prosecution case, as it stands, primarily rests on the version narrated by eyewitnesses who are stated to have informed the complainant. As per this version, the applicant allegedly abused the deceased, slapped him, held his waist and pushed him, causing the deceased to fall to the ground and sustain a head injury which is said to have resulted in his death.

8. It is material to note that the post-mortem report does not

give a final conclusive opinion as to the exact cause of death. The column regarding "probable cause of death" is reserved, and though contusion over the kidney is mentioned, there is no medical opinion presently available which specifically attributes the fatality to the alleged push by the applicant with necessary intention or knowledge attracting Section 302 IPC at this stage.

9. The FIR and supporting statements do not suggest that the applicant was armed or had any prior enmity with the deceased. The incident appears to be a sudden altercation without any premeditation. The push allegedly given by the applicant, though resulting in unfortunate consequences, prima facie does not indicate the existence of either intention to kill or knowledge that such an act would, in the ordinary course of nature, result in death.

10. The applicant has no criminal antecedents. He is stated to be a local resident and there is nothing on record to suggest that he would flee from justice or tamper with witnesses if released on bail. The investigation appears to be substantially completed and the applicant is in custody since 29th October 2023.

11. The apprehensions of the prosecution can be addressed by imposing suitable conditions to ensure the applicant's presence during trial and to secure the fair administration of justice.

12. 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.630 of 2023 registered with RCF Police Station, Mumbai for offences punishable under Sections 302, 323, and 504 of the IPC, 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 not tamper with evidence, or directly or indirectly contact, influence, threaten, or intimidate any witness, particularly family members of the deceased.
- (b) The applicant shall report to the RCF Police Station, Mumbai once in three months, specifically on the 1st Monday, between 10:00 a.m. and 12:00 noon, until further orders.
- (c) The applicant shall not leave the territorial jurisdiction of the Trial Court without its prior written permission.
- (d) The applicant shall attend each and every date before the Trial Court, unless specifically exempted by the Court.
- (e) The applicant shall not commit any offence or engage in any criminal activity during the pendency of the trial.
- (f) The applicant shall, at the time of furnishing surety, provide his current residential address and mobile number to the Investigating Officer as well as the Trial Court, and shall inform the Court in writing of any change in residence or

contact details during the pendency of the case.

(g) In case of any breach of the conditions mentioned above, the prosecution shall be at liberty to move for cancellation of bail.

13. The bail application is allowed and disposed of.

(AMIT BORKAR, J.)