

VRJ

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

BAIL APPLICATION NO.4221 OF 2024

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Essakiselva Essakiappan

... Applicant

V/s.

The State of Maharashtra

... Respondent

Mr. Vinod Kashid for the applicant.

Ms. Mahalakshmi Ganapathy, APP for the State.

Mr. Shinde, PSI, Shahu Nagar Police Station is present.

CORAM : AMIT BORKAR, J.

DATED : JULY 15, 2025

P.C.:

1. This is an application filed by the applicant under Section 439 of the Code of Criminal Procedure, 1973, seeking regular bail in connection with Crime No.38 of 2024 registered with Shahu Nagar Police Station for an offence punishable under Section 302 of the Indian Penal Code, 1860.

2. As per the prosecution case, the incident occurred on 2nd February 2024 at about 1:30 a.m. near Santosh Bar, Puttawali Galli. It is alleged that the applicant assaulted the first informant, Raja Nadar, by stabbing him with a knife in the abdomen. As a result, the informant suffered grievous injuries. Based on this incident, the aforesaid crime was registered initially under Section 307 of the IPC. It is, however, stated that the victim has since succumbed to the injuries, and the offence has been converted to one punishable under Section 302 of the IPC.

3. Learned Advocate for the applicant has submitted that the injury certificate indicates a stab wound measuring 4 x 1 cm with a peritoneal breach, and that the incident was not preplanned but arose out of a sudden altercation wherein the informant had allegedly first assaulted the applicant. It is further submitted that the applicant is a young student pursuing a Diploma in Engineering, has no past criminal record, and has been in custody since the date of the incident. On these grounds, it is prayed that he be released on bail.

4. On the other hand, learned APP has strongly opposed the application. It is submitted that the nature of the assault, the site of the injury, and the use of a deadly weapon like a knife indicate an intention to cause death, thereby satisfying the necessary ingredients of Section 302 IPC. Even otherwise, the assault falls within the ambit of Section 307 or at the very least Section 326 of IPC, both of which prescribe severe punishment. The learned APP has further pointed out that the incident was witnessed by two independent eyewitnesses and that the CCTV footage from the area also supports the prosecution case. In such circumstances, releasing the applicant on bail at this stage would not be appropriate.

5. Having considered the rival submissions and perused the material on record, this Court is of the opinion that the case warrants the exercise of discretion in favour of the applicant for the following reasons:

6. The material on record suggests that the incident occurred

during a sudden quarrel between the applicant and the injured. There is no material to show that the applicant had a motive to eliminate the informant. At this stage, it appears to be a case of a single blow inflicted in the heat of the moment.

7. The injury, though serious, is a single stab wound. The presence of only one injury is relevant while assessing the intention or knowledge of the applicant under Section 302 IPC. Whether the ingredients of Section 302 are satisfied or whether the case would fall under a lesser offence such as Section 304 Part I or Part II IPC, or even Section 326 IPC, is a matter to be tested at trial.

8. The applicant has no past criminal record. He is a student pursuing a Diploma in Engineering and has been behind bars since the date of the incident. The continued incarceration of a young person without prior criminal background, particularly when the trial is likely to take time, would not serve the ends of justice.

9. The investigation is stated to be complete and the charge sheet has already been filed. Therefore, the possibility of tampering with evidence or fleeing from justice can be addressed by imposing appropriate conditions.

10. In the above circumstances, a case is made out for granting bail. The apprehension expressed by the prosecution can be sufficiently taken care of by imposing suitable conditions.

11. Hence, the 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 No.38 of 2024 registered with Shahu Nagar Police Station for offences punishable under Section 302 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 Shahu Nagar Police Station on first and third Sunday of every month between 10.00 a.m. to 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.
4. The bail application is allowed and disposed of.

(AMIT BORKAR, J.)