

Shabnoor

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

BAIL APPLICATION NO.4272 OF 2024

Zaid Javed Sayyad	... Applicant
V/s.	
State of Maharashtra	... Respondent

Mr. Amrish Salunke a/w Ms. Tanvi Gaikwad & Shraddha Shinde with Durgesh Pandey, for the applicant.

Ms. Supriya I. Kak, APP for the State – respondent.

Mr. Ritesh Patil, Chunabhatti Police Station.

CORAM : AMIT BORKAR, J.

DATED : JULY 3, 2025

P.C.:

1. The present bail application is filed by the applicant under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023, seeking his release on bail in connection with Crime Register No. 371 of 2023, registered with Chunabhatti Police Station, Mumbai. The applicant is facing prosecution for serious offences punishable under Sections 302 (murder), 307 (attempt to murder), 326 (voluntarily causing grievous hurt by dangerous weapons), 324, 323, 341, 120B, 143, 145, 147, 148, 149 and 109 of the Indian Penal Code, 1860. In addition to the above, Section 4 read with Section 25 of the Arms Act, and Section 37(1)(a) read with Section 135 of the Maharashtra Police Act have also been invoked against the applicant.

2. As per the case of the prosecution, the incident took place on the night of 26th August 2023, when the informant's 16-year-old nephew, Anas Naeem Shaikh, returned home around 10:10 p.m. with bleeding injuries on the backside of his neck. On being questioned by his family members, Anas disclosed that while returning from the Kabrasthan area, he was suddenly stopped and assaulted by a group of persons including Fuzel Harun Qureshi, Avesh Izaz Qureshi, Zaid Izaz Qureshi, Izaz Shabbir Qureshi, the present applicant, and others. Fuzel allegedly attacked Anas with a knife on his neck, causing bleeding injuries.

3. While the family was making inquiries with Anas, a second group including Madani, Zaid, Sahil, Irfan, and the applicant allegedly arrived at the house. It is alleged that Madani assaulted another minor relative, Zian, with a knife on his head, while the applicant, Sahil, and Irfan surrounded and assaulted the informant and Zian with kicks and fists. When the informant's brother Sajid Ali attempted to intervene, the applicant, Avesh, and Izaz, allegedly armed with knives, ran towards him. Avesh and Izaz allegedly caught hold of Sajid while Zaid stabbed Sajid multiple times on the abdomen, causing him to fall. Thereafter, Anas was again attacked on his hands and back with knives by Fuzel, Avesh, Zaid, Izaz, and the present applicant. It is also alleged that the accused persons, including Harun, Fazal, Izaz and his wife Halima, Shifa, Sahil, and others, surrounded the complainant's party and beat them up. The accused allegedly brandished knives and threatened the public not to intervene, leading to panic and closure of nearby shops and houses. The informant's brother

Shamsher called the police, but due to the crowd at the spot, the police reportedly left. Sajid was taken to Rajawadi Hospital, Ghatkopar, where he was declared brought dead. The complaint lodged thereafter formed the basis for registration of the present FIR. The applicant had earlier moved for bail before the learned Sessions Court, which came to be rejected, and hence, the present application is filed.

4. Learned counsel appearing for the applicant has submitted that although the prosecution has relied upon statements of injured and other eyewitnesses, the injury certificate of Anas records only three incised wounds along with some simple injuries, and that no grievous hurt is mentioned. It is submitted that the applicant has been in custody since 27 August 2023, and charges have not yet been framed. In view of the large number of accused and witnesses, it is argued that conclusion of trial in the near future appears unlikely. Hence, it is prayed that the applicant be released on bail, particularly in view of the long incarceration and the nature of injuries reflected in the medical record.

5. On the other hand, the learned APP has strongly opposed the bail application. It is submitted that the applicant had come to the spot armed with a knife and had actively participated in the assault, demonstrating clear common intention to cause death and injuries to the victims. It is pointed out that the injury certificate though describing the injuries as simple, clearly records three incised wounds, which are suggestive of use of sharp-edged weapons. The presence of multiple eyewitnesses, including injured witnesses, attributing specific overt acts to the applicant is also

highlighted. It is therefore submitted that the applicant was not a passive bystander, but a direct participant in the violent attack, and granting bail at this stage would adversely affect the course of justice. The learned APP accordingly prays for rejection of the bail application.

6. I have carefully considered the rival submissions advanced by the learned counsel for the applicant and the learned APP for the State. I have also perused the First Information Report, the statements of the injured witnesses, and the medical records placed on record. At the outset, it is evident that the allegations levelled are of serious and grave nature, and the incident resulted in the unfortunate death of one person and injuries to others, including a minor.

7. However, it is also to be noted that the specific role attributed to the present applicant is not of causing the fatal injury to the deceased Sajid Ali. The allegation against the applicant, as per the prosecution, is that he was part of the unlawful assembly and participated in the assaults possibly by knife to Anas. The injury certificate of Anas, who is one of the injured witnesses, shows three incised wounds and some simple injuries, but there is no medical record directly attributing grievous or fatal injuries caused by the applicant.

8. It is further important to note that the applicant has been in judicial custody since 27 August 2023, i.e., for more than 10 months, and the investigation has already been completed. The charge-sheet has been filed, and the charges are yet to be framed.

Considering the number of accused persons involved and the number of prosecution witnesses, the trial is not likely to conclude in the near future.

9. There is no material shown to suggest that the applicant has previously misused liberty or has a criminal antecedent of such serious nature. There is also no allegation of tampering with witnesses or influencing the investigation during the period of custody.

10. Though Section 302 of the Indian Penal Code has been invoked in the FIR, the role of the applicant appears to be distinguishable from that of the accused persons who allegedly inflicted the fatal knife blows. It is well settled that bail cannot be denied merely on the severity of the offence, and the nature of evidence, individual role, likelihood of tampering, and period of incarceration are relevant factors for consideration. The principle of personal liberty under Article 21 of the Constitution of India must also guide the Court's discretion, particularly when the trial is not proceeding with promptitude.

11. In view of the above facts and circumstances, and considering the totality of material on record, this Court is of the opinion that the applicant deserves to be enlarged on bail, albeit with stringent conditions to ensure his presence at trial and to avoid any prejudice to the prosecution.

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

(a) The Bail Application is allowed.

(b) The applicant, shall be released on bail in connection with Crime Register No. 371 of 2023 registered with Chunabhatti Police Station for offences punishable under Sections 302, 307, 326, 324, 323, 341, 120B, 143, 145, 147, 148, 149, 109 of the IPC, Section 4 read with Section 25 of the Arms Act, and Section 37(1)(a) read with Section 135 of the Maharashtra Police Act, upon furnishing a Personal Bond of ₹25,000/- (Rupees Twenty-Five Thousand only) along with one or more solvent sureties in the like amount, to the satisfaction of the learned Trial Court, subject to the following conditions:

(c) The applicant shall not tamper with evidence, or directly or indirectly contact, influence, threaten, or intimidate any witness, particularly family members of the deceased.

(d) The applicant shall attend all proceedings before the Trial Court regularly, unless exempted by the Court on valid grounds supported by sufficient cause.

(e) The applicant shall report to the Chunabhatti Police Station, Mumbai on the first Monday of every month between 10.00 a.m. and 12.00 noon, until further orders.

(f) The applicant shall not, in any manner, contact the victim or her family members, directly or indirectly.

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

(h) The applicant shall not commit any offence or engage in any criminal activity during the pendency of the trial.

(g) The applicant shall not enter the locality where the victim resides, and the jurisdiction of Chunabhatti.

13. The Bail Application is accordingly disposed of in above terms.

(AMIT BORKAR, J.)