

*Shabnoor*

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

**BAIL APPLICATION NO.4444 OF 2024**

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Asgar Ali Muktar Shaikh

... Applicant

**V/s.**

The State of Maharashtra

... Respondent

Mr. Ankit R. Tahle i/b Tarsem Singh Gabbi for applicant.

Ms. Rajashree Newton, APP for State – respondent.

Mr. Ajay Tidke, PSI Shil Daighar police station.

**CORAM : AMIT BORKAR, J.**

**DATED : JUNE 9, 2025**

**P.C.:**

1. This is an application preferred under Section 439 of the Code of Criminal Procedure, 1973, by the applicant seeking his release on bail in connection with Crime Register No. 367 of 2024, registered at Shil Daighar Police Station. The offences alleged against the applicant are punishable under Section 307 read with Section 34 of the Indian Penal Code, 1860, which pertains to attempt to commit murder with the aid of common intention.

2. As per the case of the prosecution, the applicant is alleged to be the main conspirator behind the assault on the victim. It is alleged that the motive for the incident arises from a personal dispute, namely, the suspicion of the applicant regarding an illicit

relationship between his wife and the victim. The prosecution has further alleged that an amount of ₹8,000/- was transferred through a friend of the applicant to an acquaintance, who in turn is linked with the absconding co-accused. It is the prosecution's case that this transfer of money indicates the involvement of the applicant in orchestrating the attack. The learned Sessions Court rejected the applicant's earlier bail application by recording that the injuries suffered by the victim are corroborated by medical evidence and that the motive behind the assault appears to be rooted in personal animosity.

3. Learned counsel appearing for the applicant has drawn attention of this Court to the orders passed by the learned Sessions Judge granting bail to the actual assailants who are said to have directly inflicted the injuries on the victim. He submitted that the applicant has not transferred any money directly. The alleged transaction of ₹8,000/- was made by a third party, and there is no clear material to demonstrate that such transfer was either at the instance or for the benefit of the applicant. He further submitted that the applicant is not shown to have any prior criminal antecedents. The applicant has been in custody since 8th February 2024. It is further submitted that when the co-accused, who are alleged to have actually committed the assault, have already been released on bail, denying bail to the present applicant would amount to treating similarly placed persons unequally, contrary to the principle of parity.

4. On the other hand, the learned Additional Public Prosecutor has opposed the prayer for bail. It is submitted that the applicant is

not a mere passive participant but is the main conspirator who orchestrated the entire incident. Therefore, his role is graver than that of the assailants who have been released on bail. The learned APP argued that releasing such a person on bail at this stage would send a wrong signal and may also prejudice the fair progress of the prosecution's case.

5. I have carefully perused the material placed on record, including the statements of witnesses and the charge sheet filed by the prosecution. Upon a prima facie assessment, it is seen that the allegation against the applicant is that he is the *mastermind* behind the alleged incident. However, such a role, being of a conspiratorial nature, is a matter that requires full-fledged evidence and can only be established during the course of the trial.

6. From the charge sheet, it appears that the payment of ₹8,000/- was made by one Sanjay Chandrakant Mehta to an acquaintance of the absconding accused. However, at this stage, there is no direct evidence to show that the payment was made at the instance of the applicant or that he had direct control over the said transaction. Additionally, it is seen that the applicant's wife is also alleged to have accompanied him and other assailants at the time of the incident, which may give rise to suspicion. But mere suspicion, howsoever strong, cannot take the place of proof, especially at the stage of bail.

7. It is also an admitted position that the applicant has been in judicial custody since 8th February 2024. No material is shown to this Court that during this period, the applicant has attempted to

tamper with the evidence or influence any witness. The prosecution has also not demonstrated that the applicant's release would pose any threat to the safety of the victim or public at large. Further, there is no material indicating that the applicant is likely to abscond or evade the trial.

8. In the overall facts and circumstances, and having due regard to the principle of *parity*, particularly since the co-accused who are said to be the actual assailants have been granted bail, I am of the considered view that the applicant is entitled to be enlarged on bail, subject to conditions which will ensure his availability at trial and prevent any misuse of liberty.

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

(a) The bail application is allowed.

(b) The applicant, *Asgar Ali Muktar Shaikh*, shall be released on bail in connection with *Crime Register No. 367 of 2024*, registered with *Shil Daighar Police Station*, on his furnishing a personal bond of ₹25,000/- (Rupees Twenty-Five Thousand only), with one or more solvent sureties in the like amount, to the satisfaction of the Trial Court.

(c) The applicant shall not tamper with the evidence nor attempt to influence any witness, directly or indirectly, in any manner.

(d) The applicant shall remain present before the Trial Court on each and every date of hearing, unless prevented by

sufficient cause, which shall be shown to the satisfaction of the Trial Court.

(e) The applicant shall not leave the territorial jurisdiction of the Trial Court without obtaining prior written permission from the Court.

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

**10.** The Bail Application is accordingly disposed of.

**(AMIT BORKAR, J.)**