

Shabnoor

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

BAIL APPLICATION NO. 4488 OF 2024

Nadim Saeed Munshi

... Applicant

V/s.

State of Maharashtra

... Respondent

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Mr. Amrish Salunke a/w Durgesh R. Pandey a/w
Shraddha Shinde and Tanvi Gaikwad for the applicant.

Mr. Sagar R. Agarkar, APP for the State – respondent.

Mr. Nitin D. Sawant, PSI, Bangur Nagar Police Station.

CORAM : AMIT BORKAR, J.

DATED : JULY 8, 2025

P.C.:

1. This is a bail application filed by the applicant under Section 439 of the Code of Criminal Procedure, 1973. The applicant is seeking his release on bail in connection with Crime Register No.718 of 2020 registered at Bangur Nagar Police Station. He has been booked for offences punishable under Section 302 of the Indian Penal Code, 1860, which deals with the offence of murder, read with Section 34, which pertains to acts done by several persons in furtherance of a common intention.

2. As per the case of the prosecution, there was a dispute between the complainant, his brother, and the accused persons. In the course of that quarrel, accused No.1 along with other co-accused, including the present applicant, allegedly assaulted the complainant's brother. Due to the injuries sustained during the

assault, the complainant's brother was taken to the hospital, where he succumbed to his injuries and passed away while undergoing treatment. Based on this incident, an FIR was registered, and the applicant was taken into custody. He had initially moved an application for bail before the Sessions Court, but the same came to be rejected. Thereafter, he has approached this Court by filing the present bail application.

3. The learned Advocate for the applicant submitted that the applicant has been in custody since 18th December 2020. The prosecution has listed a total of 39 witnesses in the charge-sheet, but till date, only one witness has been examined. In such a situation, when the trial is progressing at a very slow pace, and there is no certainty as to when it will conclude, continued incarceration of the applicant will amount to undue hardship. Therefore, on the ground of prolonged detention and delay in the conduct of the trial, the applicant has sought his release on bail.

4. On the other hand, the learned APP has opposed the bail application. It is contended that although 39 witnesses have been cited in the charge-sheet, it is likely that the list will be reduced to about 22 witnesses, depending on the necessity assessed during trial. Hence, according to the prosecution, the apprehension of prolonged delay raised by the applicant is not entirely justified. It is further submitted that the offence alleged against the applicant is grave and serious in nature, and therefore, he is not entitled to be released on bail.

5. After giving due consideration to the rival submissions and

going through the charge-sheet and other material placed on record, it is noticed that the earlier bail application bearing No.320 of 2023 was already rejected by this Court. However, at that time, liberty was granted to the applicant to renew the bail application after one year if there was no substantial progress in the trial. As on the date of hearing of the present application, it is an undisputed fact that only one witness has been examined, out of the 37 witnesses cited (which may eventually be reduced to 22). Despite the said reduction, the pace of the trial proceedings reflects that the trial is not likely to commence or conclude in the near future.

6. In view of the above factual position, the Court is of the opinion that continued custody of the applicant would not serve any further purpose at this stage, particularly when the trial is stagnant, and the delay is not attributable to the applicant. Therefore, in view of the prolonged incarceration, coupled with the sluggish pace of trial, a case is made out for granting bail to the applicant.

7. Accordingly, the applicant deserves to be enlarged on bail, subject to certain stringent conditions to ensure his presence during trial and to safeguard the interest of justice.

8. Hence, the following order :

(a) The Bail Application is allowed.

(b) The applicant, shall be released on bail in connection with Crime Register No. 718 of 2020 registered with Bangur Nagar Police Station for offences punishable under Sections

302 read with Section 34 of IPC, upon furnishing a Personal Bond of ₹50,000/- (Rupees Fifty 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 report to the Bangur Nagar Police Station, Mumbai on the first Monday of every month between 10.00 a.m. and 12.00 noon, until further orders.

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

(f) 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 within the jurisdiction of Malad Police Station.

(h) 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.

9. The Bail Application is disposed of in above terms.

(AMIT BORKAR, J.)