

HARSHADA H. SAWANT
(P.A.)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.4490 OF 2024

Mastan Israr Ahmed Khan	.. Applicant
Versus	
The State of Maharashtra	.. Respondent

WITH
BAIL APPLICATION NO.1345 OF 2025

Meraj Ashraf Khan	.. Applicant
Versus	
State of Maharashtra	.. Respondent

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- Mr. Amrish R. Salunke a/w. Mr. Abhiram Venugopal, Mr. Sunil Kumar Gupta, Ms. Shraddha Shinde, Mr. Durgesh Pandey, Ms. Tanvi Gaikwad and Ms. Dipali Patil, Advocates for Applicant in Bail Application No.4490 of 2024.
 - Ms. Apeksha Vora, Advocate for Applicant in Bail Application No.1345 of 2025.
 - Mr. Balraj B. Kulkarni, APP for Respondent in both Bail Applications.
 - PSI – S. D. Patil, Shivaji Nagar Police Station, Mumbai.
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CORAM : MILIND N. JADHAV, J.

DATE : APRIL 15, 2025

P.C.:

1. Heard Mr. Salunke, learned Advocate for Applicant in Bail Application No.4490 of 2024; Ms. Vora, learned Advocate for Applicant in Bail Application No.1345 of 2025 and Mr. Kulkarni, learned APP for Respondent in both Bail Applications.

2. These are Applications under Section 439 of Code of Criminal Procedure, 1973 (for short 'Cr.P.C.') seeking Bail in

connection with C.R. No.501 of 2020 registered with Shivaji Nagar Police Station for offences punishable under Sections 302, 307 and 324 and 34 of the Indian Penal Code, 1860 (for short '**IPC**'); Sections 4 and 25 of the Arms Act, 1959 and Sections 37(1)(A) and 135 of the Maharashtra Police Act, 1951.

3. These are two Bail Applications decided together by this common order. Applicants are arraigned as Accused Nos.2 and 4 in Bail Application No.1345 of 2025 and Bail Application No.4490 of 2024 respectively. The other two Accused person namely, Accused No.3 has been enlarged on bail on 10.03.2025 in Bail Application No.4960 of 2024. Accused No.1 is incarcerated in prison.

4. Learned Advocates for both Applicants have placed before me a copy of order dated 10.03.2025 passed by this Court in Bail Application No.4960 of 2024 in the case of Accused No.3 to contend that role of both Applicants in the present case is *prima facie* identical to that of co-accused No.3 who has been enlarged on bail and therefore would persuade the Court to consider twin grounds of parity and long incarceration of Applicants pending trial for allowing the Bail Applications.

5. That apart, on the ground of merits both learned Advocates for Applicants would persuade the Court to consider the fact that Applicants are having no antecedents and the offence / crime which

took place on date of incident was such that an initial verbal altercation between two groups escalated into fight between them which resulted in the incident in question.

6. Mr. Kulkarni, learned APP would oppose both Applications for grant of bail on the ground that recovery of dangerous weapon having been effected from Applicants, as also the injured victim having received 17 injuries leading to his death, as also injured eye witness statements records role of Applicants having assaulted the injured deceased – victim and them with sword, bamboo sticks and khanjeer.

7. I have heard Mr. Salunke, learned Advocate for Applicant in Bail Application No.4490 of 2024; Ms. Vora, learned Advocate for Applicant in Bail Application No.1345 of 2025 and Mr. Kulkarni, learned APP for Respondent in both Bail Applications and with their able assistance perused the record of the cases. Submissions made by them have received due consideration of the Court.

8. *Prima facie*, it is seen that motive for the incident happened to be a conversation between Accused No.1 and deceased – victim whereby Accused No.1 asked the victim as to whether he was consuming any contraband. This question irked the victim which led to a verbal altercation between them upon which the other persons who were close friends of both sides intervened, but the said altercation was quelled after some time.

9. However the victim did not take it lightly and returned to his house and informed his brother and other relatives and they all came back to the same incident spot to reason out with the Accused No.1. By this time the Accused No.1 also summoned Accused Nos.2 to 4 who were his friends, who also intervened in the quarrel. The quarrel between the two groups escalated to such an extent that Accused persons used a sword, bamboo stick and *khanjeer* (dagger) to inflict injuries on the First Informant's group including the victim.

10. The First Informant is one of the injured witnesses having received simple injuries, as also statements of other witnesses are recorded having received simple injuries. In so far as infliction of the fatal blow on the deceased – victim is concerned, the picture is *prima facie* not clear as to which of the four co-accused persons inflicted the blows on the deceased – victim with the weapons.

11. I am informed that trial has begun and prosecution has completed witness action of one witness till date and listed the second prosecution witness for evidence on the next adjourned date out of the probable 19 witnesses which the prosecution desires to examine. Applicants are in incarceration pending trial since 4 years 6 months.

12. Though learned APP would persuade me to consider the gravity of offence, *prima facie*, apart from the aforesaid facts which are delineated as also the ground of long incarceration persuades me to

consider Applicants' case for grant of bail. Considering that Accused No.3 has been enlarged on bail by this Court, even on parity Applicants' case deserves to be considered. Needless to state that apprehension expressed by the learned APP can be taken care of by imposing conditions.

13. In view of the above considering long incarceration of Applicants in jail for 4 years 6 months, the trial taking a long time to conclude, no antecedents of the Applicants, the incident being preceded by the precursor quarrel between Accused No.1 and victim and on the ground of parity with Accused No.3, both Bail Applications are allowed subject to the following terms and conditions:-

- (i) Applicants are directed to be released on bail on furnishing P.R. Bond in the sum of Rs.50,000/- each with one or two sureties in the like amount;
- (ii) Before their actual release from jail, Applicants shall furnish their addresses where they proposes to reside after their release from jail to the concerned Police Station and also to the trial Court;
- (iii) After their release from jail, Applicants shall report to the Investigating Officer as and when called for;
- (iv) Applicants shall attend the trial Court on first Tuesday of every month between 11.00 a.m. and 1.00 p.m. to

mark their presence. If the first Tuesday of the said month falls on a holiday and / or non Court working day, the Applicants shall mark presence on the next working day;

- (v) Applicants shall co-operate with the conduct of trial and attend the trial Court on all dates unless specifically exempted and will not take any unnecessary adjournments, if they do so, it will entitle the prosecution to apply for cancellation of this order;
- (vi) Applicants shall not leave the State of Maharashtra without prior permission of the Trial Court;
- (vii) Applicants shall not influence with any of the witnesses or tamper with the evidence in any manner; and
- (viii) In case of any infraction of the above conditions and / or two consecutive defaults in marking his attendance before trial Court, it shall attract the provisions of Section 439(2) of Cr.P.C. i.e. for cancellation of bail.

14. It is clarified that the observations made in this order are limited for the purpose of granting Bail only. They shall not be construed as observations on merit. The trial shall be adjudicated on the strength of evidence led by parties and strictly on its own merits

being uninfluenced with any of the *prima facie* observations made herein above in this order.

15. Bail Application No.4490 of 2024 and Bail Application No.1345 of 2025 are allowed and disposed.

H. H. SAWANT

[MILIND N. JADHAV, J.]

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