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

BAIL APPLICATION NO.4570 OF 2024

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Arbaz Jiyauddin Shaikh

... Applicant

V/s.

The State of Maharashtra

... Respondent

Mr. Aditya Sharma with Ms. Priya Maurya for the
applicant

Mr. Prasanna P. Malshe, APP for the State.

Mr. Nilesh Patil, API, APMC Police Station, Navi
Mumbai, is present.

CORAM : AMIT BORKAR, J.

DATED : JULY 3, 2025

P.C.:

1. This bail application is filed by the applicant under Section 439 of the Code of Criminal Procedure, 1973, seeking his release in connection with Crime No. I-73 of 2024 registered at Nerul Police Station, for offences punishable under Sections 302, 307, 114, 323, 506, 34, 143, 144, 147, 148, 149, 395, 120-B, 171 and 201 of the Indian Penal Code, 1860, along with Sections 3 and 25 of the Arms Act, Section 37(1) read with Section 135 of the Maharashtra Police Act, and also Sections 3(1)(ii), 3(2) and 3(4) of the Maharashtra Control of Organised Crime Act, 1999 (MCOCA).

2. As per the prosecution case, on 13th February 2024, the applicant, along with other co-accused persons, allegedly entered into a criminal conspiracy to commit the murder of Chirag Loke. The said incident is stated to have occurred near Rajendra Bhagat's building at Sector-20, Nerul, Navi Mumbai, wherein the deceased was brutally assaulted using deadly weapons such as iron rods and wooden logs. The prosecution alleges that the present applicant was working as a driver of the main gang leader, and he was seen in the company of the co-accused persons immediately before and after the incident. It is further alleged that the murder was carried out at the behest of the gang leader, and the applicant was an active participant in the commission of the organised crime.

3. Learned Advocate appearing on behalf of the applicant submitted that parity in granting bail ought to be maintained, as co-accused persons, namely Umesh Vilas Jaunjal, Omkar Prashant Chatre @ Aarav, and Deepak Suresh Kharatmal, have already been released on bail by the learned Sessions Court. It was pointed out that out of these co-accused, two (Umesh and Deepak) are specifically named as assailants in the incident, and in contrast, the role attributed to the present applicant is comparatively less grave – namely, that he was seen along with the accused before the incident and left the spot after the incident, without any direct involvement in the act of assault.

4. On the other hand, learned Additional Public Prosecutor has strongly opposed the bail application. It was submitted that a Ford Endeavour vehicle, which was allegedly used by the gang during the commission of the offence, was recovered at the instance of the

applicant. It was further pointed out that Call Detail Records (CDRs) show that the applicant was in continuous contact with the other accused persons. Furthermore, CCTV footage and statements of eyewitnesses allegedly establish the presence of the applicant at the scene of offence before and after the incident, and hence, his role in the overall conspiracy cannot be ignored.

5. I have carefully perused the material placed on record, including the charge sheet, statements of witnesses, CCTV footage, and other relevant documents. It is not in dispute that the learned Sessions Judge has already granted bail to similarly situated co-accused persons, including two alleged assailants. The principle of parity in granting bail, though not absolute, is a well-settled consideration in criminal jurisprudence, especially when there is no distinguishing material brought on record to suggest that the applicant's role was graver than that of the co-accused who have been released. In the present case, although the applicant was seen before and after the incident, there is no direct attribution of assault or use of weapon by him in the actual occurrence. Hence, the applicant's mere presence, supported by CCTV and CDRs, by itself may not be sufficient to deny him bail when the actual assailants have already been granted bail by the competent court.

6. In view of the above discussion, and particularly in light of the orders passed by the Sessions Court in Special MCOC Case No. 272 of 2024, I am of the considered opinion that the present applicant is entitled to be released on bail on the ground of parity, subject to strict conditions to ensure his availability during trial and to prevent tampering with evidence or influencing witnesses.

7. Accordingly, the applicant is directed to be released on bail on the same terms and conditions as imposed by the Sessions Court in its order below Exhibit-44 in Special MCOC Case No. 272 of 2024.

8. Hence, the following order is passed.

1] The application is hereby allowed.

2] Applicant/accused Arbaz Jiyauddin Shaikh is directed to be released on bail in connection with Crime No.I-73 of 2024, registered at Nerul Police Station for offences punishable under Sections 302, 307, 114, 323, 506, 34, 143, 144, 147, 148, 149, 395, 120-B, 171 and 201 of the Indian Penal Code, 1860; Sections 3 and 25 of the Arms Act; Section 37(1) and 135 of the Maharashtra Police Act; and Sections 3(1)(ii), 3(2) and 3(4) of the MCOC Act, on his furnishing P. R. Bond in the sum of Rs.50,000/- (Rs. Fifty Thousand Only) with one surety in the like amount, on following conditions:

- a) Applicant shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case.
- b) He shall attend concerned police station on every Saturday between 05:00 p.m. to 07:00 p.m. till further orders.
- c) He shall attend the Court regularly on given dates.

3] Applicant should not leave India without permission of the Court.

(AMIT BORKAR, J.)