

Shivgan

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO. 4638 OF 2024

Mohd. Sadreaalam Islamrahum Shaikh ...Applicant

Versus

The State of Maharashtra ...Respondent

Mr Keshav S Chavan, *with Ms Anita Dhondeebhau Marbhal,*
for the Applicant.

Mr Kiran C Shinde, *APP for the Respondent-State.*

PSI Mahesh Anjanwad, *attached to Shivaji Nagar Police*
Station, Mumbai, present.

CORAM Dr. Neela Gokhale, J.

DATED: 20th September 2025

PC:-

1. The Applicant seeks his release on bail in connection with C.R.No.587 of 2022 dated 22nd May 2022 registered with Shivaji Nagar Police Station, Mumbai for the offences punishable under Sections 302, 203 read with Section 34 of the Indian Penal Code, 1860.

2. The prosecution case as discerned from the FIR, is that the Applicant was having an affair with a lady called, Nazira Bano Irfan Khan. The deceased-Irfan was the husband of the said Nazira-accused no.2. There was a quarrel between the deceased and the Applicant over the extra marital relationship between said Nazira and the Applicant.

3. It is alleged that on 22nd May 2022, said Nazira told the deceased's sister that the deceased had fallen down and suffered injuries. It transpired during the investigation, that on 22nd May 2022, a quarrel had ensued between the Applicant and deceased Irfan. In the course of the quarrel, the Applicant took a vegetable knife, which was lying on the kitchen counter and stabbed the deceased on his chest. Owing to these stab injuries, Irfan died. Hence, the complaint was made and the FIR was registered accordingly.

4. The Applicant had made a bail application before the Sessions Court of Greater Bombay, however, by an order dated

12th April 2024, the said application was rejected. Hence, he has filed the present application for the reliefs as prayed.

5. Mr. Keshav Chavan, learned counsel appearing for the Applicant, submits that the Applicant was arrested on 22nd May 2022, i.e, on the date of incident. Charges are framed. However, no witness has been examined as on date. He further submits that the co-accused namely, Nazira Bano Irfan Khan was granted bail on 4th January 2023. He also submits that this is not a pre-meditated crime and at best, it emanated from some arguments between the parties and it is committed in the spur of the moment. He also submits that there are no antecedents in respect of the Applicant.

6. On the other hand, Mr. Shinde, learned APP representing the State, brings to my notice the post-mortem report, which clearly indicates that the cause of death was hemorrhage and shock due to multiple stabbed injuries on chest. He has also brought to my notice, the statement of child witness namely, the daughter of said Nazira. She has clearly

stated that she saw Irfan-the deceased, being stabbed by the Applicant with a vegetable knife lying in the kitchen. He also submits that the knife, which is the weapon of the offence, is recovered at the instance of the Applicant. Mr. Shinde also submits, on instructions, that said Nazira, the co-accused, who was enlarged on bail by the Trial Court, is now absconding and she has been declared as a proclaimed offender. He thus, resists the bail application.

7. I have heard both the counsel and have perused the papers with their assistance.

8. It is not in dispute that the incident occurred in May 2022 and the Applicant has been in custody for 3 years and 4 months. Charges have been framed in 2024 but as yet none of the witnesses are examined. It is also seen from the statement of the child witness that the alleged offence took place during the quarrel between the Applicant and the deceased and it happened in the spur of the moment with the vegetable knife

lying in the kitchen. There is no pre-meditation in commission of the alleged offence.

9. It is well settled that prolonged incarceration of an undertrial prisoner without conclusion of trial amounts to violation of his fundamental right under Article 21 of the Constitution of India. In this context, the Hon'ble Supreme Court in *Hussain & Anr. v. Union of India*,¹ has held that right to speedy trial is a part of fair trial guaranteed under Article 21. The Court further held that inordinate delay in trial is a valid ground for granting bail in appropriate cases, even in serious offences.

10. In the present case, the Applicant has roots in society. The apprehension of the prosecution that the Applicant may tamper with evidence can be addressed by imposing suitable conditions.

1 (2017) 5 SCC 702

11. Taking an overall view of the matter, including the prolonged incarceration of 3 years and 4 months, slow pace of trial and keeping in mind the principles laid down by the Hon'ble Supreme Court, I am of the opinion that the Applicant deserves to be released on bail subject to strict conditions.

ORDER

- i) The Applicant be enlarged on bail, on executing PR Bond in the sum of Rs.50,000/ with one or two local sureties in the like amount;
- ii) The Applicant shall attend the Shivaji Nagar Police Station, Mumbai, once in 15 days between 10:00 a.m. to 11:00 a.m. till the conclusion of the trial;
- iii) The Applicant shall not enter DCP Zone-6, Mumbai during the pendency of the trial, save and except only to attend the Police Station and the Trial Court as stipulated as conditions of this order;

iv) The Applicant shall attend the Trial Court concerned on each and every date unless specifically exempted by the orders of the Trial Court concerned;

v) If the Applicant has not deposited his passport, the Applicant shall deposit the same with the concerned Police Station;

vi) The Applicant shall not leave India, without the permission of the trial Court;

vii) The Applicant shall not tamper or attempt to influence or contact the complainant, witnesses or any person concerned with the case;

viii) The Applicant shall inform his latest place of residence and mobile number immediately after being released and / or change of residence or mobile details, if any, from time to time to the Court

seized of the matter and to the Investigating Officer
of the concerned Police Station;

ix) The Applicant to co-operate with the conduct
of the trial;

x) Any infraction of the aforesaid conditions
shall entail cancellation of bail.

12. Application is allowed in the above terms and is
accordingly disposed of.

13. It is made clear that the observations made herein
are *prima facie* and are confined to this Application and the
learned Trial Judge to decide the case on its own merits,
uninfluenced by the observations made herein.

(Dr. Neela Gokhale, J)

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signed by
SHAMBHAVI
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