

Shabnoor

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

BAIL APPLICATION NO. 4703 OF 2024

Shakil Ahmed Baburaza Shaikh	... Applicant
V/s.	
State of Maharashtra	... Respondent

Ms. Sofiya Shaikh a/w Mr. Mohd Ahmed, for the applicant.

Mr. Prasanna P. Malshe APP for the State – respondent.

Mr. Ritesh Patil, PSI, Chunabhatti Police Station, Mumbai.

CORAM : AMIT BORKAR, J.

DATED : JUNE 23, 2025

P.C.:

1. The present application is filed by the applicant under Section 439 of the Code of Criminal Procedure, 1973, seeking regular bail in connection with Crime Register No.230 of 2024, registered with Chunabhatti Police Station, Mumbai. The applicant has been arrested for serious offences punishable under Sections 302 (murder), 307 (attempt to murder), 326, 324, 323 (causing grievous and simple hurt), 504, 506(2) (criminal intimidation), 143, 144, 147, 149 (unlawful assembly and rioting), and 120-B (criminal conspiracy) read with Section 34 (common intention) of the Indian Penal Code, 1860. In addition to the offences under the IPC, Sections 37(1)(A) and 135 of the Maharashtra Police Act have

also been invoked against the applicant.

2. As per the case of the prosecution, the incident occurred on 7th June 2024. It is alleged that one Asif, uncle of the informant, along with his sister-in-law Saba, had gone to Salman's house to collect clothes and utensils of Saba's children. During this visit, a quarrel allegedly broke out between Asif and other co-accused. Thereafter, the informant's grandfather, Umar, allegedly called the informant's mother Zarina, and gave instructions to co-accused Salman, Amaan, Imran, Shaban, and Anas to assault Asif by pelting stones. It is alleged that in the said assault, stones were thrown at Asif's head, causing him injuries. He was then taken to Shatabdi Hospital for treatment. Later, when the informant and her mother Zarina were returning from the hospital with Asif in an auto-rickshaw, a group of 6 to 7 persons allegedly attacked Asif with knives, wooden rods, and stones. Statements of several eyewitnesses have been recorded, and while some of the witnesses have specifically attributed the act of stabbing with a knife to some of the accused, others have mentioned the role of different accused in the assault using fists and kicks. The applicant was arrested on 8th June 2024. His bail application before the learned Sessions Court was rejected. Hence, the applicant has approached this Court seeking bail.

3. Learned Advocate for the applicant has taken me through the charge-sheet, as well as statements of key prosecution witnesses, including those of the informant, Adnan, Firoz, Umer, Imran, and Mohammad. It is submitted that these witnesses have assigned a specific role of assault with stone to some of the co-accused

persons, but no direct role of assault with knife has been attributed to the present applicant. It is pointed out that the Postmortem Report shows that the cause of death is stated as 'shock due to stab injury over the chest.' Column 17 of the Postmortem Report refers to surface injuries on the deceased and notably does not mention any injuries caused due to stone or blunt force trauma. On this basis, it is submitted that the role of the applicant in the actual act of murder is not evident, and his involvement appears to be of lesser gravity than that of the main assailants. It is, therefore, argued that the applicant may be released on bail, subject to appropriate conditions.

4. On the other hand, learned APP has strongly opposed the bail application and submitted that the role attributed to the accused persons is of collective assault, involving use of knife, wooden rod, and stones. It is argued that this is not a case where a specific individual act can be segregated at this stage, particularly when the offence is of a serious nature like murder. The APP submits that all the accused acted in furtherance of common intention or unlawful assembly, and therefore, even if the exact weapon used by the present applicant is not known at this stage, he cannot be treated differently. It is further submitted that releasing the applicant on bail at this stage would not be proper, given the seriousness of the allegations and the possibility of tampering with witnesses or influencing the investigation.

5. I have considered the submissions made by both sides and perused the material placed on record. On going through the statements of eyewitnesses and the charge-sheet, it appears that

the role of causing stab injury, which is stated to be the cause of death as per the Postmortem Report, has been attributed to certain specific co-accused. Column 17 of the Postmortem Report mentions the fatal injury to be a stab wound on the chest, and no injuries caused by stone are indicated therein. Though some of the witnesses have alleged that stones were used in the attack, there is no medical corroboration to show that such assault led to the death.

6. The statements of witnesses indicate that while several persons were involved in the assault, the act of stabbing, which led to the death of the deceased, is not directly attributed to the present applicant. The applicant has been arrested on 8th June 2024 and has remained in custody since then. The charge-sheet has already been filed, and custodial interrogation of the applicant is no longer required. The trial is likely to take considerable time. The applicant does not appear to have any criminal antecedents as per the record placed before this Court.

7. Considering the above circumstances, particularly the fact that the specific role of inflicting the fatal injury is not attributed to the applicant, and that the trial may take time, further incarceration of the applicant may not be justified. However, appropriate conditions are required to be imposed to ensure that the applicant does not misuse the liberty granted to him.

8. Hence, the following order is passed:

(a) The Bail Application is allowed.

(b) The applicant, shall be released on bail in connection

with Crime Register No. 230 of 2024 registered with Chunabhatti Police Station, Mumbai for offences punishable under Sections 302, 307, 326, 324, 323, 504, 506(2), 143, 144, 147, 149, 120-B read with 34 of the IPC, and Sections 37(1)(A), 135 of the Maharashtra Police Act, upon furnishing a Personal Bond of ₹25,000/- (Rupees Twenty-Five 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.

(d) The applicant shall attend all proceedings before the Trial Court regularly, unless exempted by the Court on valid grounds supported by sufficient cause.

(d) The applicant shall report to the Chunabhatti 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, 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 accordingly disposed of in above terms.

(AMIT BORKAR, J.)