

Shabnoor

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

BAIL APPLICATION NO. 4714 OF 2024

Mayur @ Mayarya Mahadev Shinde ... Applicant
V/s.
State of Maharashtra ... Respondent

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Mr. Ammar Nizami, for the applicant.

Mrs. Rajashree V. Newton, APP for the State –
respondent.

Mr. Dilip Jadhav, PSI, MFC Police Station, Kalyan.

CORAM : AMIT BORKAR, J.

DATED : JULY 28, 2025

P.C.:

1. The present application is moved by the applicant under Section 439 of the Code of Criminal Procedure, 1973, seeking his release on bail in connection with Crime Register No. I-540 of 2021, registered with Mahatma Phule Police Station, for offences punishable under Sections 307, 323, 504 read with 34 of the Indian Penal Code, 1860, and under Sections 3 and 25 of the Indian Arms Act, 1959.

2. As per the case of the prosecution, on 5th August 2021, at around 3:00 a.m., the first informant along with two other persons was returning home on a motorcycle. During the return journey, they noticed three unknown persons, including the applicant,

sitting beside the road on a handcart. It is alleged that these unknown persons started abusing the complainant and his companions, questioning them as to why they were staring at them. Upon this provocation, the complainant stopped the motorcycle, and a verbal exchange turned into a scuffle. In the said scuffle, the applicant along with co-accused allegedly started assaulting the complainant and his friends with fists and kicks. It is further alleged that co-accused Shakil Bagwan held the complainant and assaulted him with a sharp-edged weapon, due to which the complainant sustained serious injuries. Based on the said incident, the complainant lodged a First Information Report against the applicant and the co-accused.

3. Learned Advocate appearing for the applicant has submitted that, even as per the prosecution's version, the role attributed to the present applicant is limited to having assaulted the complainant and his friends with fists and kicks only. The use of a deadly weapon, i.e., a knife, is specifically attributed to co-accused Shakil Bagwan, and not the present applicant. It is further submitted that the applicant was arrested on 16th November 2021, and the investigation is complete. The charge-sheet has already been filed, and hence, there is no further requirement for custodial interrogation. It is also urged that the applicant is in custody for more than two and a half years, and the trial is not likely to conclude in the near future. The applicant, therefore, seeks his release on bail.

4. On the other hand, learned APP has vehemently opposed the bail application. She submits that the present applicant was

part of the unlawful assembly and actively participated in the assault along with co-accused persons. It is submitted that the applicant shared the common intention with the co-accused, and thus, is equally liable under Section 34 of the IPC, for the grievous injuries caused to the complainant. It is also pointed out that the applicant has a criminal antecedent relating to an offence punishable under Section 324 of IPC, and hence, is not entitled to any indulgence by the Court. Therefore, it is submitted that the application be rejected.

5. I have considered the submissions of the learned Advocate for the applicant and the learned APP for the State. I have also perused the material placed on record, including the FIR, medical papers of the injured, statements of eyewitnesses, and the charge-sheet.

6. The FIR discloses that the incident occurred in the early hours of 5th August 2021, when the complainant and his two friends were returning home. A verbal altercation with three unknown persons escalated into a physical assault. The informant has alleged that he was beaten by fists and kicks by the present applicant and other co-accused. The more serious allegation of causing injury with a sharp weapon is attributed specifically to co-accused Shakil Bagwan.

7. The role attributed to the present applicant is distinguishable from that of the main accused Shakil. There is no recovery of any weapon from the applicant. It is not the case of the prosecution that the applicant was armed or that he inflicted

grievous or dangerous injuries with any weapon. The prosecution relies upon Section 34 of the IPC to attribute common intention. At this stage, whether there was premeditated common intention or whether the applicant shared the intention of using a deadly weapon is a matter of trial, and cannot be conclusively determined at this interlocutory stage.

8. The applicant is in custody since 16th November 2021. Investigation is complete, and the charge-sheet has already been filed. The applicant's further custodial interrogation is not required. The applicant's role, as per the prosecution case itself, appears to be that of a secondary participant who allegedly assaulted by fists and kicks. The nature of his involvement, though not entirely innocuous, is not of such a grave nature that would justify continued incarceration, especially when trial is likely to take time.

9. The learned APP has pointed out that the applicant has a prior criminal antecedent under Section 324 IPC. However, the said antecedent by itself cannot be the sole ground for denial of bail unless there is material to show that the applicant is likely to commit similar offences or tamper with evidence or influence witnesses. No such material is placed on record in the present case. The prosecution has also not brought on record any complaint of threats or coercion post registration of the FIR.

10. The applicant is a permanent resident of the local area. No material is placed on record to show that he is a flight risk or that he will abscond or tamper with the evidence. Stringent conditions

can be imposed to secure his presence during trial.

11. Considering the totality of circumstances, including the specific role attributed to the applicant, the period of incarceration already undergone, and the fact that the trial is likely to take some time, I am of the considered opinion that the applicant deserves to be released on bail, subject to certain conditions to ensure fair trial and prevent misuse of liberty.

12. Hence, the following order is passed:

(i) The Bail Application is allowed.

(ii) The applicant shall be released on bail in connection with Crime Register No. I-540 of 2021 registered with Mahatma Phule Police Station for offences punishable under Sections 307, 323, 504 read with 34 of IPC, Sections 3, and 25 of the Indian Arms 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:

(a) The applicant shall not tamper with evidence, or directly or indirectly contact, influence, threaten, or intimidate any witness.

(b) The applicant shall report to the Mahatma Phule Police Station on the first Monday of every month between 10.00 a.m. and 12.00 noon, until further orders.

(c) The applicant shall not leave the territorial jurisdiction

of the Trial Court without its prior written permission.

(d) The applicant shall not commit any offence or engage in any criminal activity during the pendency of the trial.

(e) 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.

13. The Bail Application stands disposed of in above terms.

(AMIT BORKAR, J.)