

AGK

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

BAIL APPLICATION NO.4958 OF 2024

Mustafa @ Faijju Mehboob Shaikh	... Applicant
V/s.	
The State of Maharashtra	... Respondent

Ms. Rukhsar Shaikh with Ebaad Shaikh for the applicant.

Mr. Sagar R. Agarkar, APP for the respondent-State.

Mr. Vijay Bhalerao, PSI, Khadakpada Police Station, Kalyan, is present.

CORAM : AMIT BORKAR, J.

DATED : AUGUST 1, 2025

P.C.:

1. By the present application filed under Section 439 of the Code of Criminal Procedure, 1973 ("Cr.PC." for short), the applicant is seeking regular bail in connection with Crime Register No. 414 of 2022 registered with Khadakpada Police Station, Kalyan. The offences alleged against the applicant are punishable under Sections 307, 323, 504 read with Section 34 of the Indian Penal Code, 1860 ("IPC" for short).

2. As per the prosecution case, the incident occurred on 17 October 2022 when the complainant was on his way home. At that time, he noticed two individuals, namely Munib and his friend Imtiyaz, engaged in a conversation by the roadside. Suddenly,

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three unknown persons reached the spot and started a quarrel with Munib and Imtiyaz. They allegedly abused and assaulted Munib with fists and kicks. Thereafter, two persons held Munib, and the third person inflicted blows with a knife on Munib's back, stomach, and other parts. The said third person also allegedly attacked Imtiyaz with a knife. Due to the injuries sustained, both Munib and Imtiyaz were in distress and requested the complainant to help them. Accordingly, the complainant arranged for an auto-rickshaw and took them to the hospital. During the journey, when the complainant inquired about the incident, Munib disclosed that out of previous enmity, and at the instigation of the present applicant, the co-accused Danish Shaikh had held him and assaulted him with fists and kicks. Thereafter, co-accused Faizu Shaikh allegedly attacked Munib with a knife, and another co-accused, Dishant, allegedly assaulted Imtiyaz with a knife on the stomach and back.

3. Learned Advocate appearing for the applicant has contended that the role attributed to the present applicant is limited to an assault with a knife on the hand of the victim. It is submitted that the applicant has been arrested on 27 October 2022 and since then he is in custody. The investigation is completed and the charge-sheet has already been filed. It is further submitted that the prosecution has cited as many as 16 witnesses, and considering the volume of evidence and usual pace of trial, it is unlikely that the trial will conclude in the near future. It is, therefore, prayed that the applicant be released on regular bail, particularly as further custodial interrogation is no longer necessary.

4. On the other hand, the learned APP has strongly opposed the application for bail. She submitted that the applicant had arrived at the place of occurrence along with other co-accused, and the assault was a result of a pre-planned conspiracy. It is further submitted that the applicant was part of an unlawful assembly having a common intention to assault the victims. The specific role attributed to the applicant is that he caused a knife injury to the victim's right hand. The medical certificate shows that the said injury measured about 4 cm x 3 cm, deep enough to expose the bone. In view of the nature and seriousness of the offence and the injuries inflicted, the learned APP prayed for rejection of the bail application.

5. I have carefully considered the submissions made by the learned Advocate for the applicant and the learned APP for the State. I have also perused the papers of investigation, including the charge-sheet and injury certificates placed on record.

6. It is not in dispute that the incident in question took place on 17 October 2022 and the applicant came to be arrested on 27 October 2022. Since then, the applicant is in judicial custody. The charge-sheet has already been filed, and the custodial interrogation of the applicant is no longer required.

7. As per the version of the injured eye-witness Munib, the applicant is not specifically named as the person who gave knife blows. The role attributed to the applicant has come through a supplementary statement where it is alleged that he had instigated the co-accused. The actual assault causing grievous injuries with a

knife is attributed primarily to co-accused Faizu Shaikh and Dishant. Though there is a reference that the applicant caused a knife injury on the hand of the victim, the exact manner in which the applicant participated in the incident appears to be a matter of trial. The specific injury caused by the applicant is not of life-threatening nature, though it is described as a deep cut exposing the bone.

8. The offence is undoubtedly serious, but the role attributed to the present applicant is not such which would disentitle him from bail at this stage, especially when the trial is likely to take considerable time, considering that 16 prosecution witnesses are cited. The possibility of early conclusion of trial is remote.

9. There is no material on record to show that the applicant has any criminal antecedents. No material is placed before this Court to demonstrate that the applicant is likely to abscond or tamper with the evidence, if released on bail. Stringent conditions can be imposed to ensure his presence during trial.

10. In view of the above circumstances, particularly considering the period of incarceration already undergone, the filing of charge-sheet, and the fact that the trial is not likely to commence in the near future, this Court is of the opinion that the applicant deserves to be released on bail.

11. Hence, following order is passed:

- i) The bail application is allowed;
- ii) The applicant is directed to be released on regular bail

in connection with Crime Register No.414 of 2022 registered with Khadakpada Police Station, Kalyan for offences punishable under Sections 307, 323, 504 and 34 of the Indian Penal Code, 1860, upon furnishing a personal bond of Rs.25,000/- (Rupees Twenty Five Thousand Only) with one or more solvent sureties in the like amount, to the satisfaction of the 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, particularly family members of the deceased.
- (b) The applicant shall report to the Khadakpada Police Station, Kalyan twice a month, specifically on the 1st and 15th day of each 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.

(f) In case of any breach of the conditions mentioned above, the prosecution shall be at liberty to move for cancellation of bail.

12. The bail application is allowed and disposed of.

(AMIT BORKAR, J.)