

Shabnoor

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

BAIL APPLICATION NO.5186 OF 2024

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Mohhammad Aadil Ajamali Shaikh	... Applicant
V/s.	
State of Maharashtra	... Respondent

Mr. Nitin Gaware Patil a/w Jay Salunke for the Applicant.

Ms. Supriya I. Kak, APP for the State – respondent.

Mr. Satish, PI, Turbhe MIDC Police Station.

CORAM : AMIT BORKAR, J.

DATED : JUNE 13, 2025

P.C.:

1. This is an application under Section 439 of the Code of Criminal Procedure, 1973, filed by the applicant seeking regular bail in connection with Crime Register No. 422 of 2023 registered at Turbhe MIDC Police Station, Navi Mumbai. The applicant is accused of having committed an offence punishable under Section 302 of the Indian Penal Code, 1860, which relates to the offence of murder.

2. As per the First Information Report (FIR) lodged by the informant, Mr. Nahim Jakir Ansari, on 8th December 2023, while he was on his way back home, he saw an unknown person lying in an unconscious state with visible head injuries and bleeding. The informant immediately contacted the emergency helpline number 112. The police reached the spot and found the said person in a

pool of blood. He was taken to the hospital, where he was declared dead. During the course of investigation, the applicant came to the police station and surrendered. It is the case of the prosecution that the applicant disclosed that there was a scuffle between him and the deceased due to the deceased's refusal to hand over a matchbox. It is further alleged that in the said scuffle, the applicant assaulted the deceased on his head, which resulted in his death. Based on this disclosure, the applicant was arrested. His earlier bail application filed before the learned Sessions Court was rejected on the ground that there are two eyewitnesses to the incident, and that circumstantial evidence and an extra-judicial confession are on record against the applicant. Hence, the present application has been filed before this Court.

3. Learned Advocate appearing for the applicant submitted that upon perusal of the charge-sheet, the material relied upon by the prosecution consists primarily of CCTV footage and certain statements. It is submitted that the CCTV footage from the place of incident merely shows that the applicant was present near the scene about 10 minutes prior to the alleged incident. Subsequently, the CCTV footage from the police station shows the applicant entering the police station. It is argued that no eyewitnesses have directly seen the act of assault and that the conclusion drawn by the Sessions Court about the presence of eyewitnesses is factually incorrect. It is further submitted that the alleged extra-judicial confession made by the applicant is weak evidence in law and, by itself, is insufficient to justify prolonged pre-trial incarceration. Therefore, it is submitted that in the absence of direct and cogent

evidence, the continued custody of the applicant is not warranted, and he deserves to be released on bail, particularly when trial is likely to take time.

4. On the other hand, the learned Additional Public Prosecutor (APP) has strongly opposed the application for bail. It is submitted that the offence alleged against the applicant is of a grave and serious nature, being one punishable under Section 302 of the IPC. The learned APP pointed out that the applicant's statement made at the police station admitting to the assault is corroborated by the CCTV footage showing his entry into the police station soon after the incident. Further, it is submitted that recovery of blood-stained clothes at the instance of the applicant, the extra-judicial confession, and the surrounding circumstances collectively make out a prima facie case of murder. According to the prosecution, these materials are sufficient at this stage to satisfy the ingredients of Section 302 IPC, and hence, the applicant does not deserve the benefit of bail, given the seriousness of the allegation and the possibility of tampering with evidence.

5. I have carefully considered the entire record, including the charge-sheet, the statement made by the applicant, and the panchnama of the CCTV footage. It appears that the incident in question occurred at a public place, which was open and accessible to the general public. As per the CCTV footage panchnama from the spot of the incident, the applicant is seen standing with another person for some time and then leaving the area. Subsequently, the CCTV footage panchnama of the concerned police station shows the applicant entering the police station.

6. The prosecution is relying upon a statement made by the applicant at the police station, which is in the nature of a confession. However, at this stage, it is important to note that a confessional statement made before a police officer is not admissible in evidence under Sections 25 and 26 of the Indian Evidence Act, 1872, unless it is made in accordance with law before a Magistrate under Section 164 of the Cr.P.C. Therefore, such a confession cannot be used to deny bail, especially when there is no other strong material showing direct involvement of the applicant.

7. Further, the prosecution has not placed on record any eyewitness account directly connecting the applicant to the act of assault or murder. The entire case appears to rest upon circumstantial evidence, namely the presence of the applicant at the location of incident approximately 10 minutes before the incident occurred, and an alleged extra-judicial confession.

8. It is well settled that in a case based purely on circumstantial evidence, the prosecution must establish a complete and unbroken chain of events that conclusively leads to the guilt of the accused. Whether such a chain exists or not can only be determined during the course of trial, and not at the stage of bail.

9. Taking into account that the applicant's presence near the scene, by itself, is not sufficient to establish his complicity in the crime, and that the trial is likely to take time, I am of the opinion that further continuation of the applicant's pre-trial custody is not warranted. The applicant has no criminal antecedents, and no

material is placed on record to indicate any likelihood of tampering with evidence or threatening witnesses. Hence, a case for grant of bail is made out. However, considering the nature of the allegation, strict conditions need to be imposed to ensure that the applicant does not misuse the liberty granted to him.

10. In view of the above discussion and legal position, the following order is passed:

(a) The Bail Application stands allowed.

(b) The applicant, *Mohammad Aadil Ajmali Shaikh*, shall be released on bail in connection with C.R. No. 422 of 2023 registered at Turbhe MIDC Police Station, on furnishing a Personal Bond of ₹50,000/- (Rupees Fifty Thousand only) with one or more solvent sureties in the like amount, to the satisfaction of the learned Trial Court.

(c) The applicant shall not tamper with the evidence or attempt to contact, influence, threaten, or intimidate any witness, especially the family members of the deceased, in any manner.

(d) The applicant shall attend all hearings before the Trial Court regularly, unless a valid exemption is granted by the Court upon appropriate application supported by sufficient cause.

(e) The applicant shall not leave the territorial jurisdiction of the Trial Court without obtaining its prior written permission.

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

(g) At the time of furnishing sureties, the applicant shall provide his current residential address and mobile number to the Investigating Officer as well as the Trial Court, and in the event of any change, shall promptly inform the Trial Court and the Investigating Officer in writing.

11. The Bail Application is accordingly disposed of in the above terms.

(AMIT BORKAR, J.)