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

BAIL APPLICATION NO. 5192 OF 2024

Zeeshan Ali Sattar Khan ... Applicant

V/s.

State of Maharashtra ... Respondent

WITH

INTERIM APPLICATION NO.2742 OF 2025

IN

BAIL APPLICATION NO. 5192 OF 2024

Nazibulla Baitulla Gani ... Intervener

V/s.

State of Maharashtra ... Respondent

Mr. Husen Shaikh a/w Ms. Saima Khan, for the applicant.

Mrs. Shilpa Talhar, APP for respondent No.1-State.

Mr. Satyaram R Gaud for Intervener.

Mr. Rohan Kamble, API, R.A.K Marg Police Station.

CORAM : AMIT BORKAR, J.

DATED : SEPTEMBER 2, 2025

P.C.:

1. By the present bail application filed under Section 439 of the Code of Criminal Procedure, 1973 (hereinafter referred to as "Cr.P.C."), the applicant seeks his release on regular bail in connection with Crime Register No. 134 of 2024 registered with R.A.K. Marg Police Station. The said crime has been registered for offences punishable under Sections 302, 307, 504, 506, 143, 147,

148 and 149 of the Indian Penal Code, 1860 (hereinafter referred to as “IPC”).

2. The prosecution case, in brief, is that the complainant, one Najeebullah Baitaullah Gani, is a resident of Wadala since his childhood. It is alleged that from the year 2022, there existed a dispute between the complainant’s family and one Zahir Shaikh @ Chati along with his associates namely Sohail Qureshi @ Babu, Riyaaz Qureshi, Altaf Qureshi and Zeeshan Qureshi. In fact, owing to such disputes, the complainant had earlier lodged a complaint with R.A.K. Marg Police Station.

3. On 19th March, 2024, at about 10:30 p.m., when the son of the complainant was sitting with his friends near the house, accused Sohail and Riyaz allegedly abused and spat towards them. When questioned by the complainant’s son, they allegedly threatened him with dire consequences, proclaiming that “tomorrow will be your last day.”

4. It is further alleged that on the very next day, i.e., on 20th March, 2024, at around 7:15 p.m., accused Zahir Shaikh @ Chati, Sohail Qureshi @ Babbu, Riyaz Qureshi, Altaf Qureshi, Arif Shaikh, Zeeshan Qureshi, Amir Qureshi and Junaaid Shaikh assembled near the complainant’s house and started hurling abuses. It is alleged that Sohail Qureshi and Zahir Shaikh were armed with knives, while Altaf, Arif and Zeeshan were carrying rods.

5. At that point of time, when Sajid, son of the complainant, came out of the house, accused Riyaz allegedly started beating him with a stump. The complainant, while attempting to save his son,

was also assaulted with rods by accused Altaf, Arif and Zeeshan. The other son of the complainant too was attacked. Thereafter, it is alleged that accused Zahir Qureshi and others caught hold of one Javed Gani, and accused Riyaz and Sohail stabbed him with knives, resulting in grievous bleeding injuries. The locals who had gathered at the spot allegedly dispersed after being threatened by the accused. Immediately thereafter, Sajid called the police, upon whose arrival the accused fled from the spot.

6. On the basis of the complainant's statement, FIR bearing C.R. No. 134 of 2024 came to be registered at R.A.K. Marg Police Station on 21st March, 2024, against the above-named accused persons for the aforesaid offences.

7. Learned Advocate appearing for the applicant submits that the specific allegation against the applicant, along with co-accused Altaf and Arif, is of assaulting the deceased with a rod. He points out that according to the prosecution, an iron rod is alleged to have been recovered at the instance of the applicant and Arif, whereas a wooden rod is said to have been recovered from Altaf. Learned counsel places reliance on the order of the co-ordinate Bench of this Court in Bail Application No. 4117 of 2024, by which co-accused Arif, having a similar role, has been released on bail. He also relies on the bail granted to Altaf, as well as to Zahir, who was allegedly armed with a knife. It is therefore submitted that the applicant deserves to be enlarged on bail by applying the principle of parity.

8. On the other hand, learned APP, ably assisted by the Advocate appearing on behalf of the complainant, strongly opposes the application. It is contended that the allegations against the applicant are of a serious nature. It is further contended that though certain co-accused have been granted bail, the role attributed to the present applicant is distinct, inasmuch as the iron rod has been recovered specifically at his instance. It is therefore urged that the applicant cannot claim absolute parity and is also liable under Section 34 of the IPC. Accordingly, the prosecution prays for rejection of the bail application.

9. I have carefully considered the rival submissions and also gone through the papers of investigation placed on record. The allegations against the applicant are that he, along with co-accused Altaf and Arif, assaulted the deceased with rods. The recovery of an iron rod is shown at the instance of the applicant. However, it is not in dispute that co-accused Arif, who is alleged to have played a similar role and from whom also iron rod was recovered, has already been released on bail by a co-ordinate Bench of this Court in Bail Application No. 4117 of 2024. Similarly, co-accused Altaf, from whom wooden rod was recovered, has also been enlarged on bail.

10. It is further seen that co-accused Zahir, who was allegedly armed with a knife, has also been released on bail. Thus, the case of the present applicant stands on equal footing with the co-accused Arif and Altaf, and in fact is on a better footing than that of Zahir, who was carrying a knife and has already been released.

11. It is well settled that when co-accused having a similar role have been granted bail, then unless there are distinguishing circumstances, the principle of parity requires that the applicant also be treated alike.

12. In the present case, investigation is substantially complete, recovery is already effected, and the applicant is in custody since his arrest. The trial is likely to take considerable time. Taking into account the principle of parity and the fact that co-accused having similar or even more serious allegations are already on bail, I am of the considered view that the applicant is entitled to be released on bail.

13. Hence, following order is passed:

- i) The bail application is allowed;
- ii) The applicant is directed to be released on bail on furnishing PR. Bond in the sum of Rs. 25,000/- with one or two solvent sureties in the like amount;
- iii) The applicant is permitted to furnish provisional cash bail of Rs. 25,000/- for his release immediately and file undertaking that he will provide one or two sureties in the like amount of Rs. 25,000/- within a period of four weeks after his release which shall be accepted by the Trial Court. Applicant shall provide sureties as directed;
- iv) Before his actual release from jail, Applicant shall furnish his address where he proposes to reside after his release from jail to the concerned Police Station and also to

the trial Court;

v) After his release from jail, Applicant shall report to the Investigating Officer as and when called for;

vi) Applicant shall attend the trial Court on first Tuesday of every month between 11.00 a.m. and 1.00 p.m. to mark his presence. If the first Tuesday of the said month falls on a holiday and /or non Court working day, the Applicant shall mark presence on the next working day;

vii) Applicant shall co-operate with the conduct of trial and attend the trial Court on all dates unless specifically exempted and will not take any unnecessary adjournments, if he does so, it will entitle the prosecution to apply for cancellation of this order;

viii) Applicant shall not leave the State of Maharashtra without prior permission of the Trial Court;

ix) Applicant shall not influence with any of the witnesses or tamper with the evidence in any manner; and

x) In case of any infraction of the above conditions and/or two consecutive defaults in marking his attendance before trial Court, it shall attract the provisions of Section 439 (2) of Cr.P.C. i.e. for cancellation of bail.

14. In view of disposal of bail application, pending Interim Application No. 2742 of 2025 is also disposed of.

(AMIT BORKAR, J.)