

Nikita

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

BAIL APPLICATION NO.5255 OF 2024

Mohmad Sahil @ Lucky S/o. Mohmad
Salim

... Applicant

V/s.

The State of Maharashtra and Anr.

... Respondents

Mr. Gaurav Chaubey i/b Ms. Kavitha Prakash for the
Applicant.

Mr. Hiten Venegavkar a/w Mr. Shubham Joshi for the
Respondent No.2.

Ms. M. H. Mhatre, APP for the State.

CORAM : ASHWIN D. BHOBE, J.

DATED : 5th AUGUST, 2025

P.C.:

1. Heard Mr. Gaurav Chaubey, learned Advocate for the Applicant, Ms. M. H. Mhatre, learned APP for the State and Mr. Hiten Venegavkar, learned Advocate for the Respondent No.2.

2. By the present application filed under Section 439 of the Code of Criminal Procedure, 1973, Applicant is seeking bail in connection with C. R. No.3 of 2023 registered with Coastal Police Station, Moti Daman, for the offences punishable under Sections 302 read with 34 of the Indian Penal Code, 1860. Said crime is registered as Sessions Case No.5 of 2023 and the same is pending

before the Court of Sessions Judge Daman.

3. There are four accused in the present crime. Applicant is Accused No.3. One of the Accused is a child in conflict with law.

4. Case of the prosecution is that Accused, and CCL have committed murder of Gaurishankar Dalia (deceased). Gaurishankar Dalia was assaulted with a knife, bracelet and with fist and blows. Postmortem report of the deceased indicate 22 injuries. Out of 22 injuries, 20 are caused by use of sharp weapon. Rest of the two injuries are abrasions.

5. Applicant was arrested on 16.02.2023, since then he is in jail. Bail Application at Exhibit-10 filed by the Applicant in Sessions Case No.5 of 2023 was rejected by the Sessions Judge Daman on 09.10.2023.

6. Mr. Gaurav Chaubey, learned Advocate for the Applicant submits that the Applicant has been falsely implicated in the crime. He submits that there is no material on record to indicate the Applicant being present at the place of incident or the Applicant assaulting Gaurishankar Dalia. He submits that no recoveries have been made at the instance of the Applicant. He submits that the Applicant has been arrested on suspicion, i.e. the Applicant being seen in the CCTV footage. He submits that the place where the CCTV camera is installed is the place/ way used by the Applicant to go to his work place. He submits that the CCTV footage does not indicate assault on Gaurishankar Dalia. He submits that the Applicant does not have any criminal antecedents.

7. Mr. Hiten Venegavkar and Mr. Shubham Joshi learned

Advocate for the Respondent No.2, submits that the material on record discloses the involvement of the Applicant in the crime. They submit that the Applicant is seen in the CCTV footage and his movements are found to be suspicious. He submits that the co-accused i.e. Manish Thapa, Shahanawaz Khan and Bharat Rathod, in their statement to the Police have named the Applicant to be present at the time of commission of the crime. They submit that the knife used in the crime is recovered and the blood stains are found to be of Gaurishankar Dalia. He submits that the Applicant made an attempt to forge his birth records to claim that the Applicant being juvenile.

8. In the rejoinder, Mr. Gaurav Chaubey, learned Advocate for the Applicant submits that the Applicant on the date of alleged crime was 18 years and not a juvenile. He submits that the recovery of the knife was at the instance of Shahanawaz Khan (Accused No.1). He reiterates that there is no material on record to implicate the Applicant in the crime.

9. I have perused the record with the assistance of learned Advocates for the parties.

10. Records reveals that apart from the statements made by the co-accused to the Police, in the said crime, allegedly implicating the Applicant in the crime, there is no material to demonstrate the role or the involvement of the Applicant in the said crime. No recoveries are said to have been made at the instance of the Applicant. Knife which is alleged to be used in the crime is recovered at the instance of the Accused No.1. On a specific query

to the learned Public Prosecutor, as to whether there is any material to connect the Applicant to the recovery of the weapon, they answered in the negative.

11. With reference to the CCTV footage, Mr. Gaurav Chaubey, learned Advocate for the Applicant submits that the CCTV footage is recovered from the road which is regularly used by the Applicant to go to his work place (Dinesh Bar), which is in the close vicinity. He submits that the CCTV footage does not show the Applicant being present at the place of incident or the Applicant assaulting Gaurishankar Dalia.

12. Aforesaid being the nature of evidence on the strength of which the prosecution proposes to bring home the charge against the Applicant, further no criminal antecedents of the Applicant being placed on record, this is a fit case to enlarge the Applicant on bail.

13. In view of the above, the present Bail Application is allowed, on the following conditions:

- a) Applicant is directed to be released on bail in connection with C. R. No.3 of 2023 registered with Coastal Police Station, Moti Daman on his furnishing PR bond in the sum of Rs.25,000/- with one or two sureties in the like amount to the satisfaction of the Sessions Judge Daman.
- b) Applicant shall attend and regularly appear before the Sessions Case No.5 of 2023 pending before the Sessions Judge Daman on each date of hearing, unless specifically exempted by the Court.

c) Applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with facts of the case so as to dissuade such person from disclosing the facts to the Court or any police officer and shall not tamper with evidence.

d) Applicant upon his release, within 3 days shall furnish to the Investigation Officer, Coastal Police Station, Moti Daman his residential address with proof and the contact number and to keep the Investigation Officer intimated about the change in the same from time to time.

14. Bail Application No.5255 of 2024 is allowed in the above said terms.

(ASHWIN D. BHOBE. J.)