

Ajay

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

CRIMINAL BAIL APPLICATION NO. 5390 OF 2024

Eijaj Ahmed Supariwala	.. Applicant
Versus	
The State of Maharashtra	.. Respondent

**WITH
INTERIM APPLICATION NO. 645 OF 2025
IN
CRIMINAL BAIL APPLICATION NO. 5390 OF 2024**

Alhan Ehsan Qureshi	.. Intervenor
IN THE MATTER BETWEEN	
Eijaj Ahmed Supariwala	.. Applicant
Versus	
The State of Maharashtra	.. Respondent

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- Mr. Shailesh Kharat a/w. Mr. Tanmay Kate, Advocates for Applicant.
 - Ms. Savita M. Yadav , APP for Respondent – State.
 - Mr. A.T. Shirke, PSI – Nagpada Police Station present.
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CORAM : MILIND N. JADHAV, J.

DATE : MARCH 13, 2025.

P.C.:

1. Heard Mr. Kharat, learned Advocate for Applicant and Ms. Yadav, learned APP for Respondent – State.

2. This is an Application under Section 439 of the Code of Criminal Procedure, 1973 seeking Regular Bail in connection with C.R.No.92 of 2023 registered with Nagpada Police Station for the offences punishable under Sections 302, 307, 323, 363, 504, 506, 120-

B, 141, 142, 143, 145, 146, 147, 148 and 149 of the Indian Penal Code, 1860; Sections 4 and 25 of the Indian Arms Act, 1959 and Sections 37(1) and 135 of the Maharashtra Police Act, 1951.

3. Applicant is arraigned as Accused No.4 in the present crime. There are total 9 accused persons. The incident occurred on 17.01.2023 between 08:30 p.m. and 10:30 p.m. Name of the victim is Amas who succumbed to his injuries at the spot. First Informant is Alhaan brother of Amas who has lodged the crime report. His statement is appended at page No.41 of the Application. With the able assistance of the learned Advocate for Applicant, I have perused the said statement. *Prima facie*, when the said statement is read, it is seen that the incident leading to the fatality i.e. death of Amas occurred at around 09:30 p.m. when the family members of the Applicant namely his wife, daughter and two sons assaulted the deceased victim Amas who had visited their house to reason out with them with respect to a dispute in which the deceased victim was attempting to intervene.

4. The incident is vividly and specifically described by First Informant who has attributed specific role to the Accused persons. Admittedly according to the First Informant when the deceased victim Amas Qureshi was assaulted, present Applicant was not present at the incident spot. When the First Informant intervened to save his brother even he was assaulted and got injured. At that time First Informant's

friend Shariq Abdul Guffar who is arraigned as Accused No.3 came forward from the persons who had gathered at the incident spot and asked the First Informant to sit pillion on his motorcycle so that he could take him to JJ Hospital for treatment. First Informant sat on the motorcycle alongwith Accused No.3 and they both left the incident spot. Accused No.3 however instead of taking him to the hospital for treatment took him to a place called 'Arab Galli' in Nagpada situated nearby where the Applicant was present. Thereafter Applicant was confronted with the First Informant who took out a knife and ran after him to assault him by threatening him but the First Informant ran away from there and his shouting alerted the residents nearby who came to the spot for his rescue.

5. From the version narrated by the First Informant in so far as the role attributable to the Applicant qua the deceased victim Amas is concerned, it is *prima facie* seen that he was not present at the incident spot in Bhendi Bazar area where the alleged first incident took place. Though two witnesses have in their witness statements stated that they have seen the Applicant being present at the incident spot, there is a clear dichotomy in the version narrated by the two witnesses which does not match *prima facie* with the First Informant's statement.

6. Accused No.3 is already enlarged on bail. First Informant Alhaan has been injured but *prima facie* his own statement shows that

he was injured in the first instance itself and not during the incident when he confronted the Applicant in Arab Galli at Nagpada where he was taken by Accused No.3.

7. *Prima facie* considering the fact that Applicant had no role to play in the resultant death of the deceased victim Amas, Applicant has made out a case for grant of bail.

8. Hence, Bail Application is allowed subject to the following terms and conditions:-

- (i) Applicant is directed to be released on bail on furnishing P.R. Bond in the sum of Rs.25,000/- with one or two sureties in the like amount;
- (ii) 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;
- (iii) After his release from jail, Applicant shall report to the Investigating Officer as and when called for;
- (iv) 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;

- (v) 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;
- (vi) Applicant shall not leave the State of Maharashtra without prior permission of the Trial Court;
- (vii) Applicant shall not influence with any of the witnesses or tamper with the evidence in any manner; and
- (viii) 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.

9. It is clarified that the observations made in this order are limited for the purpose of granting Bail only and I have not made any observations on merits of the case. The trial shall be adjudicated on the strength of the evidence led and strictly on its own merits being uninfluenced with any of the *prima facie* observations made herein above in this order.

10. Bail Application is allowed and disposed.

11. In view of the disposal of Bail Application, Interim Application No.645 of 2025 is also disposed.

[MILIND N. JADHAV, J.]

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signed by AJAY
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