

AGK

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

BAIL APPLICATION NO.5418 OF 2024

Pappu @ Shafiul Amad Anyanmal Miya ... Applicant

V/s.

The State of Maharashtra ... Respondent

Mr. Milan A. Desai with Mr. Akram A. Shaikh and Mr. Saffar Gujjar for the applicant.

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

Mr. Rajendra Khairnar, API, Khandeshwar Police Station, is present.

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CORAM : AMIT BORKAR, J.

DATED : SEPTEMBER 8, 2025

P.C.:

1. The present bail application is filed under Section 439 of the Code of Criminal Procedure, 1973 seeking regular bail. The applicant is arrested in connection with Crime Register No. 290 of 2022 registered at Khandeshwar Police Station for offences punishable under Section 302 read with Section 23 of the Indian Penal Code, 1860.

2. The prosecution case, in brief, is that on 17 November 2022 at about 9.00 p.m., one Asmira Vyapari lodged a report at Khandeshwar Police Station. She stated that around 8.00 p.m., her neighbour Mashud informed her on phone that some person had assaulted her husband, Omar Farooq Fakir Vyapari, with a knife and that he was being taken to M.G. Hospital, Kamothe. When she

reached the hospital, she found her husband with injuries on his neck, cheeks, and face. His clothes were soaked in blood. On medical examination, he was declared dead.

3. It is alleged that the complainant had obtained divorce from her first husband in December 2021. In January 2022, she married the deceased Omar Vyapari, who worked as a daily wage worker with a nut-bolt manufacturing company situated near their residence. About four months prior to the incident, the deceased brought the present applicant, Pappu @ Shakeel Ul Ahmad, to their house, saying that until he arranged his own residence, he would stay with them. The applicant resided with them during July 2022. During that period, the complainant and the applicant developed an intimate relationship, including consensual physical relations. The applicant allegedly took her nude photographs and pressurised her to leave her husband and live with him. On her refusal, he threatened to circulate those photographs. Consequently, she lodged a complaint at Khandeshwar Police Station. The police called the applicant, counselled him, and the matter was settled.

4. It is further alleged that after about a month, the applicant again threatened her to desert her husband, failing which he would kill him. However, she did not lodge any further complaint regarding this threat.

5. Learned counsel for the applicant submitted that the applicant is falsely implicated. The entire case rests on circumstantial evidence. The only circumstance alleged is the

alleged motive of his relationship with the wife of the deceased. It is pointed out that though a knife is shown to be recovered at the instance of the applicant, and certain chat messages with the wife of the deceased are relied upon, there is no proper translation of those chats which are in Bengali. He further submitted that those conversations, when read, show that the applicant repeatedly refused to kill the deceased. He therefore argued that since the applicant has been in custody since 18 November 2022, and the trial is not likely to conclude in the near future, the applicant deserves to be released on regular bail.

6. On the other hand, learned APP opposed the bail. He relied upon the chat conversations between the wife of the deceased and the applicant, which, according to him, clearly reveal that both had discussed killing the deceased on several occasions. The chats show that the applicant had agreed to commit murder on assurance from the wife of the deceased to continue her relationship with him. The knife has also been recovered at the instance of the applicant. A strong motive arising out of the illicit relationship is established from the record. In these circumstances, the learned APP submitted that the application for bail deserves to be rejected.

7. I have considered the rival submissions and perused the material on record. The offence alleged against the applicant is of a serious nature punishable under Section 302 of IPC. The material collected by the prosecution prima facie indicates that the applicant had developed an illicit relationship with the wife of the deceased. The prosecution has placed reliance on chat

conversations between the applicant and the wife of the deceased which, at this stage, disclose repeated discussions regarding the killing of the deceased. The chats also indicate that the applicant agreed to commit murder on assurance of continuing relationship with the wife of the deceased.

8. The recovery of the knife at the instance of the applicant lends further support to the prosecution case. The argument of the defence that the chats are in Bengali and not properly translated, and that the applicant had refused to kill the deceased, are matters which can be appreciated only at the stage of trial. At this stage, the Court is not expected to weigh the evidence meticulously, but only to see whether there exists a prima facie case against the accused.

9. The motive attributed to the applicant, arising out of his relationship with the wife of the deceased, coupled with the recovery of weapon and the content of chats, constitute strong incriminating circumstances. These circumstances cannot be lightly brushed aside. The Supreme Court has repeatedly held that while deciding bail, the Court has to take into consideration the gravity of the offence, the nature of evidence, the possibility of the accused influencing witnesses or tampering with the evidence, and the likelihood of the trial being concluded within a reasonable time.

10. In the present case, the offence alleged is of murder punishable with death or imprisonment for life. The investigation has brought on record circumstances showing that the applicant

was having an illicit relationship with the wife of the deceased. This provides a strong motive for the commission of the crime. The recovery of knife at the instance of the applicant directly connects him to the offence. The chats between the applicant and the wife of the deceased, though subject to proof at trial, *prima facie* indicate that there were repeated discussions about killing the deceased and the applicant had agreed to it.

11. At the stage of considering bail, the Court is not expected to conduct a detailed examination of the evidence. However, where the circumstances disclose a strong *prima facie* case, bail cannot be granted only on the ground that the trial may take time. The seriousness of the charge, the manner in which the offence is alleged to have been committed, and the nature of evidence available, weigh against the applicant.

12. It is also to be noted that the wife of the deceased is a material witness. Grant of bail at this stage may give rise to the possibility of the applicant trying to influence or threaten her or other witnesses. The balance of convenience, therefore, does not lie in favour of the applicant.

13. Considering all these factors, I am of the view that the prosecution has placed sufficient material on record to show the involvement of the applicant in the crime. The allegations are grave, the evidence collected is substantial, and the possibility of tampering with witnesses cannot be ruled out. Hence, the applicant does not deserve the discretionary relief of bail.

14. The applicant is in custody since 18 November 2022, but considering the seriousness of the charge, the gravity of the offence, and the possibility of influencing the witnesses, I am not inclined to exercise discretion in favour of the applicant.

15. Hence, the application for regular bail stands rejected.

(AMIT BORKAR, J.)