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

BAIL APPLICATION NO.82 OF 2025

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Roshan Rupesh Pathak

... Applicant

V/s.

The State of Maharashtra

... Respondent

Mr. Veerdhawal Deshmukh for the applicant.

Ms. Megha S. Bajoria, APP for the State.

Mr. Eknath P, API, Manpada Police Station is present.

CORAM : AMIT BORKAR, J.

DATED : JULY 16, 2025

P.C.:

1. By this application filed under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short, 'BNSS'), the applicant is seeking regular bail in connection with Crime No. I-972 of 2024 registered at Manpada Police Station. The offences alleged against the applicant are punishable under Sections 103, 118(1), 115(2), 352, 3(5), 189(2), 189(4), 191(2) and 190 of the Bharatiya Nyaya Sanhita, 2023.

2. As per the prosecution case, the incident took place on 13th August 2024 at around 10:00 p.m. The dispute arose when one Mohd. Sehajad was reversing and parking his Bolero Pickup vehicle after taking a turn. At that time, accused Pradeep Gaikwad and his two friends had arrived on a scooter bearing No. MH-05-FA-3186. Due to the turn taken by the vehicle, a verbal altercation

started between the accused and Mohd. Sehjad, which soon escalated into a physical fight. It is alleged that the accused persons started beating Sehjad with a pipe and also gave him fist and kick blows. When Raju Gupta, Arun Gupta, and Bablu Gupta tried to intervene and stop the quarrel, they too were beaten brutally by the accused persons.

3. Further, the prosecution states that after this first incident, while the informant was on his way to the police station, accused Pradeep Gaikwad, Mithun Sharma, the present applicant Roshan Pathak, and two others intercepted the informant's brother — Bablu Gupta and Arun Gupta — at the spot of the earlier incident. It is alleged that they again assaulted the brothers, giving fist and kick blows, particularly on the stomach of Bablu Gupta. Due to the injuries sustained in the assault, Bablu Gupta suffered internal injuries and ultimately succumbed. On the basis of this occurrence, the First Information Report (FIR) came to be registered.

4. Learned counsel for the applicant submitted that the name of the applicant does not appear in the FIR. It is only on the basis of a supplementary statement that the applicant came to be arrested. The role attributed to the applicant is of giving fist and kick blows to the deceased. It is further submitted that CCTV footage of the scene has been seized under panchnama and is part of the charge sheet. The footage allegedly shows that two persons wearing white shirts, other than the applicant, are seen assaulting the deceased. Although the applicant may be seen present at the scene, there is no specific overt act visible against him. It is also submitted that the applicant has clean antecedents, is a permanent resident, and

there is no likelihood of him absconding or tampering with evidence. On these grounds, it is argued that the applicant may be enlarged on bail.

5. On the other hand, learned Additional Public Prosecutor strongly opposed the bail application. It is submitted that there are two eyewitnesses whose statements have been recorded during the investigation, and they have categorically stated that the applicant actively participated in the assault by giving fist and kick blows. The role attributed to him is not of mere presence but of direct involvement. Therefore, in light of the prima facie material and the nature of the offence, it is submitted that the applicant's custodial detention is necessary and the application deserves to be rejected.

6. I have carefully considered the rival submissions and perused the material placed on record, including the FIR, statements of witnesses, medical papers, and the CCTV footage panchnama. It is not in dispute that the name of the present applicant does not figure in the initial FIR and that he came to be arrested only on the basis of a supplementary statement.

7. The specific role attributed to the applicant is that of assaulting the deceased by giving fist and kick blows. However, as per the CCTV footage produced by the prosecution itself, it appears that two persons wearing white shirts, who are not the present applicant, are seen assaulting the deceased. The CCTV footage may suggest the presence of the applicant at the scene, but no specific overt act clearly attributable to him is visible in the footage. At this stage, this assumes importance for the purpose of

considering the prayer for bail.

8. It is also pertinent to note that the applicant is not alleged to have used any weapon in the said incident. The postmortem report may show internal injuries sustained by the deceased, but whether such injuries were caused directly by the applicant or whether there was shared common intention under Section 34 BNS, is a matter to be proved during trial. At this stage, the Court must refrain from entering into deeper appreciation of evidence, which is the domain of the trial Court.

9. The applicant has no criminal antecedents to his discredit. He is a local resident and there is nothing on record to show that he is likely to abscond or tamper with the evidence. The charge-sheet has already been filed and custodial interrogation is no longer necessary. The trial is likely to take time, and continued incarceration at this stage may not serve any useful purpose.

10. In view of the above circumstances, and considering the settled principles laid down by the Supreme Court regarding grant of bail, particularly that bail is the rule and jail is the exception, I am of the considered opinion that the applicant deserves to be released on bail, subject to appropriate conditions.

11. Hence, the following order is passed:

- i) The bail application is allowed;
- ii) The applicant Roshan Rupesh Pathak is directed to be released on regular bail in connection with Crime No.I-972 of 2024 registered with Manpada Police Station for offences

punishable under Sections 103, 118(1), 115(2), 352, 3(5), 189(2), 189(4), 191(2) and 190 of the Bharatiya Nyaya Sanhita, 2023, upon furnishing a personal bond of Rs.25,000/- (Rupees Twenty Five Thousand Only) with one or more solvent sureties in the like amount, to the satisfaction of the Trial Court, subject to the following conditions:

- a) The applicant shall report the Manpada Police Station on first Monday of every month between 10.00 a.m. to 12.00 noon, until further orders.
- b) The applicant shall not tamper with the evidence or attempt to influence any witness.
- c) The applicant shall appear before the Trial Court on every date of hearing unless prevented by sufficient cause.
- d) The applicant shall not leave the territorial jurisdiction of the Trial Court without prior permission.
- e) The applicant shall not indulge in any criminal activity during the pendency of the trial.
- f) Any breach of these conditions shall result in the prosecution moving for cancellation of bail before the Trial Court.

4. The bail application is allowed and disposed of.

(AMIT BORKAR, J.)