

Shabnoor

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

BAIL APPLICATION NO.258 OF 2025

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SHABNOOR AYUB
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Vivan Haresh Gogia

... Applicant

V/s.

State of Maharashtra

... Respondent

None for the applicant.

Ms. Mahalasma Ganapathy, APP for the State –
respondent.

CORAM : AMIT BORKAR, J.

DATED : JUNE 13, 2025

P.C.:

1. This is a bail application preferred by the applicant under Section 439 of the Code of Criminal Procedure, 1973, seeking his release on regular bail in connection with Crime Register No. I-353 of 2024 registered at Vitthalwadi Police Station. The applicant has been arrested for offences punishable under Sections 397 (robbery or dacoity with attempt to cause death or grievous hurt), 452 (house trespass after preparation for hurt, assault or wrongful restraint), 506(2) (criminal intimidation), 504 (intentional insult with intent to provoke breach of peace), read with Section 34 (common intention) of the Indian Penal Code, 1860, and also under Sections 37(1) and 135 of the Maharashtra Police Act, 1951.

2. The prosecution case, as narrated in the First Information Report (FIR), is that on 3rd June 2024 at about 3:45 p.m., the applicant along with his associate (co-accused) came on a motorcycle to the shop of the informant. It is alleged that the applicant was riding the motorcycle and the co-accused was seated as a pillion rider. The co-accused purchased 5-litre oil can from the shop, for which the informant handed over the oil and asked for payment. While the co-accused was still in the shop, the applicant allegedly took ₹1,500/- in cash from the shop counter and kept the money in his pocket. When the informant objected, the co-accused allegedly took out a knife from his pocket and inflicted two blows on the informant's hand. Thereafter, both the applicant and co-accused are stated to have pushed the informant, exited the shop, and fled the spot on their motorcycle. The applicant had earlier approached the learned Sessions Court with a prayer for bail, which came to be rejected. Hence, the present application has been moved before this Court.

3. The learned Additional Public Prosecutor opposed the application and submitted that the role attributed to the co-accused in the incident is more serious inasmuch as he used a weapon and assaulted the informant. However, it is not in dispute that the said co-accused has already been granted bail by the learned Sessions Court vide order dated 11th October 2023.

4. I have carefully considered the material placed on record including the FIR, statements of witnesses, and other documents filed with the charge sheet. It appears that the main role in the present case is attributed to the co-accused, who is alleged to have

assaulted the informant with a knife and thereby caused injuries. The applicant, on the other hand, is not alleged to have used any weapon during the incident. The only specific allegation against the applicant is that he took ₹1,500/- from the shop counter and kept it in his pocket before fleeing with the co-accused.

5. It is important to note that the said co-accused, who is alleged to have used a deadly weapon and inflicted physical harm, has already been granted bail by the learned Sessions Court vide order dated 11th October 2023. Compared to him, the role of the applicant appears to be relatively less serious and does not involve use of force or any weapon.

6. In such circumstances, applying the principle of parity, where similarly placed accused are to be treated equally in matters of bail, the applicant also deserves to be released on bail. However, to ensure that the applicant does not misuse his liberty or obstruct the course of justice, certain stringent conditions are necessary.

7. In view of the above discussion and the legal position governing grant of bail on the basis of parity, the following order is passed:

(a) The Bail Application is allowed.

(b) The applicant, Vivan Haresh Gogia, shall be released on bail in connection with C.R. No. I-353 of 2024 registered with Vitthalwadi Police Station, upon furnishing a Personal Bond of ₹50,000/- (Rupees Fifty Thousand only) along with one or more solvent sureties in the like amount, to the satisfaction of the learned Trial Court.

(c) The applicant shall not tamper with the evidence or try to contact, influence, threaten or intimidate any witness, including the informant or his family members, in any manner.

(d) The applicant shall regularly attend all proceedings before the Trial Court, unless exempted by the Court on valid and justifiable grounds.

(e) The applicant shall not leave the territorial jurisdiction of the Trial Court without prior written permission of the Court.

(f) The applicant shall not indulge in any criminal activity or commit any offence during the pendency of the trial.

(g) At the time of furnishing surety, the applicant shall provide his current residential address and mobile number to the Investigating Officer as well as the Trial Court. The applicant shall also inform the Court in writing if there is any change in his residential address or contact number during the course of the trial.

8. The Bail Application stands disposed of accordingly.

(AMIT BORKAR, J.)