

AGK

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

BAIL APPLICATION NO.306 OF 2025

Mohammad Multan Mohammad Shafi	... Applicant
V/s.	
The State of Maharashtra	... Respondent

Ms. Deepa Punjani for the applicant.

Mrs. Rajashree Newton, APP for the respondent-State.

Mr. Dattatray Pawar, API, Rabale MIDC Police Station,
is present.

CORAM : AMIT BORKAR, J.

DATED : JULY 8, 2025

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P.C.:

1. The present application is filed by the applicant under Section 439 of the Code of Criminal Procedure, 1973, seeking regular bail in connection with Crime Register No.375 of 2023 registered at Rabale MIDC Police Station. The applicant has been arrested in connection with offences punishable under Section 302 read with Section 34 of the Indian Penal Code, 1860, for the alleged murder of one Raju Kale.

2. The brief facts of the prosecution case are as follows: The First Information Report (FIR) came to be lodged by one Mahadev Raju Kale, the son of the deceased, on 1st November 2023. He has stated in the FIR that he resides in Oaradhi Vasti, MIDC, Navi Mumbai. His father, the deceased Raju Kale, used to sleep in an

open area near a hut situated adjacent to a company's godown, as that place had lighting facilities. One Pallibai Bhanudas Kale, a neighbour, and another person by name Mohammad Multan, were familiar individuals who used to frequent the vicinity, and therefore, the informant knew them well.

3. On the night of 2nd November 2023, as per their routine, Raju Kale, Pallibai Kale, and Mohammad Multan were consuming alcohol together. Between 11:30 p.m. and 12:30 a.m., the informant and his family members heard a commotion outside. Upon stepping out, the informant, his wife, and other relatives noticed that Pallibai and Mohammad Multan were assaulting the deceased by giving fist blows. When they tried to intervene, they were told that the deceased had taken Pallibai's mobile phone, and for that reason, they were assaulting him. The injured Raju Kale was immediately taken to the hospital in an auto-rickshaw, where he was declared dead around 1:30 a.m.

4. The learned Advocate for the applicant has drawn the attention of this Court to Column 21 of the postmortem report and submitted that the medical examination found cirrhosis of the liver, and the probable cause of death is stated to be hemorrhage and shock due to blunt trauma to the abdomen. It is submitted that the nature of assault, as described by the eye-witnesses, was limited to fist blows, which prima facie does not reflect any intention or knowledge to cause death. It is therefore contended that the case may fall under a lesser offence and not under Section 302 of IPC. The learned counsel for the applicant submitted that considering the above, the applicant has made out a case for grant

of bail.

5. On the other hand, the learned APP has opposed the bail application and invited the attention of this Court to Clause 19 of the postmortem report, which reveals the presence of hemorrhage under the scalp over the right parietal region. According to her, this injury is an additional and material factor contributing to the death of the deceased. It is further submitted that the eye-witnesses have specifically attributed an active role to the applicant in the incident. In these circumstances, the learned APP submitted that this is not a fit case for granting bail and the application deserves to be rejected.

6. I have considered the submissions made by the learned counsel for the applicant and the learned APP for the State. I have also gone through the FIR, statements of eye-witnesses, and the postmortem report placed on record.

7. From the material placed on record, it appears that the alleged incident took place in the late hours of the night, where the deceased, the applicant, and another co-accused were consuming liquor. The FIR itself discloses that the assault was carried out by giving fist blows. The eye-witnesses also mention fist blows but do not indicate the use of any weapon or repeated assault with dangerous force.

8. The postmortem report at Column 21 records that the cause of death is hemorrhage and shock due to blunt abdominal trauma. The report also mentions cirrhosis of liver, a chronic medical condition, which may have aggravated the internal injury and

hastened the death. There is also a mention of hemorrhage under the scalp, but it has not been conclusively shown that such injury was fatal by itself.

9. At this stage, it cannot be said conclusively whether the applicant had the necessary intention or knowledge to cause death, as required under Section 302 of the IPC. The applicant has no criminal antecedents, and he is in custody since his arrest. The investigation is complete and chargesheet is already filed. Further custodial interrogation is not required.

10. It is settled law that while considering bail application, the seriousness of the offence alone is not the sole ground for rejection of bail. The Court must also consider other factors such as the role attributed to the accused, the material collected, possibility of tampering with witnesses, and the likelihood of the accused fleeing from justice.

11. Having regard to the overall facts and circumstances of the case, and particularly considering the nature of injuries, the medical report, and the fact that the incident arose out of a sudden quarrel under the influence of alcohol, I am of the opinion that a case for grant of bail is made out.

12. Hence, following order:

- i) The bail application is allowed;
- ii) The applicant is directed to be released on regular bail in connection with Crime Register No.375 of 2023 registered with Rabale MIDC Police Station for offences punishable

under Sections 302 read with 34 of the Indian Penal Code, 1860, upon furnishing cash bail in the amount of Rs.25,000/- (Rupees Twenty Five Thousand Only).

iii) The applicant shall, within a period of four weeks from the date of release on cash bail, furnish 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 Rabale MIDC 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.

13. The bail application is allowed and disposed of.

(AMIT BORKAR, J.)