

AGK

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

BAIL APPLICATION NO.361 OF 2025

Aman Tahir Qureshi	... Applicant
V/s.	
The State of Maharashtra	... Respondent

None for the applicant.

Mrs. Shilpa G. Talhar, APP for the respondent-State.

ATUL
GANESH
KULKARNI
Digitally signed by
ATUL GANESH
KULKARNI
Date: 2025.08.12
19:12:37 +0530

CORAM : AMIT BORKAR, J.

DATED : AUGUST 12, 2025

P.C.:

1. By this bail application filed under Section 439 of the Code of Criminal Procedure, 1973 ("Cr.P.C." for short), the applicant seeks to be released on regular bail in connection with Crime Register No. 1207 of 2022 registered with Mumbra Police Station. The offences alleged are under Sections 302 (murder), 324 (voluntarily causing hurt by dangerous weapons), 143 (unlawful assembly), 147 (rioting), 149 (every member of unlawful assembly guilty of offence committed in prosecution of common object), 323 (voluntarily causing hurt), 504 (intentional insult with intent to provoke breach of peace), 506 (criminal intimidation), and 34 (acts done by several persons in furtherance of common intention) of the Indian Penal Code, 1860 ("IPC" for short), along with Sections 37(1) and 135 of the Maharashtra Police Act, 1951

(prohibiting certain acts in notified areas).

2. As per the case of the prosecution, co-accused Akhtar Hujjuali Jafari @ Khan had earlier given some bottles of Corex cough syrup to the informant's brother, Mustafa Ismile Bange. On 22 October 2022 at about 11.00 a.m., the said co-accused, along with other accused persons including the present applicant, went to the house of Mustafa to demand return of the said bottles. Mustafa and the informant's husband, Sannam Khan, stated that they did not have the bottles. At this, the accused persons started abusing them and assaulting them.

3. It is alleged that in the course of the incident, co-accused Amman Qureshi hit Mustafa on his back and right eye with a knife, and then stabbed Sannam Khan on his chest and head. It is further alleged that the present applicant lifted Mustafa and threw him on the ground, following which all the accused together assaulted both Mustafa and Sannam Khan. As a result, Sannam Khan suffered serious bleeding injuries on his head and chest. He was taken to a hospital in Mumbai, where he was declared "brought dead" by the doctors.

4. The submissions of the learned Advocate for the applicant were partly heard yesterday, during which the learned Advocate stated that he would seek instructions from his client as to whether he intended to withdraw the bail application or invite an order on merits. However, on the next date, the learned Advocate for the applicant remained absent.

5. The learned Advocate for the applicant submits that the applicant has been falsely implicated. He contends that the applicant resides in the same locality, and at the time of the incident, he went to the spot merely out of curiosity to see what had happened. According to him, the applicant did not participate in the commission of the crime. It is further pointed out that co-accused Akhtar, Zubair, Matin, and Abid have already been granted bail, and therefore, the applicant seeks to be released on the ground of parity. On these grounds, he prays that the applicant be granted regular bail.

6. On the other hand, the learned APP for the State draws attention to the First Information Report ("FIR"), which specifically attributes to the applicant the role of being the main assailant who assaulted the deceased on the head and chest. The postmortem report records that the cause of death was haemorrhage and shock due to a stab injury over the abdomen which caused damage to vital structures. The material on record, according to the prosecution, clearly shows that the applicant himself inflicted this fatal injury. In contrast, the role attributed to other co-accused such as Zubair is of assaulting the deceased with a wooden stick, Abid with a piece of brick, while others are alleged to have used fists and blows. Co-accused Akhtar is only alleged to have been exerting pressure for return of the bottles. Thus, the prosecution submits that since the applicant is alleged to be the author of the fatal injury, his case stands on a different footing from that of the co-accused who have been granted bail. On these grounds, the learned APP prays for rejection of the bail application.

7. I have carefully considered the submissions advanced on behalf of the applicant as well as those made by the learned APP for the State. I have also perused the FIR, statements of witnesses, postmortem report, and other material placed on record.

8. The law relating to grant of bail in serious offences like murder under Section 302 IPC is well settled. While considering a bail application, the Court has to take into account the seriousness of the allegations, the specific role attributed to the accused, the gravity of the offence, and the possibility of the accused tampering with the prosecution evidence or influencing witnesses. The discretion to grant bail in such cases is to be exercised cautiously, especially where prima facie material discloses the involvement of the accused in the commission of the offence.

9. In the present case, the FIR specifically names the applicant and attributes to him an active role in the assault. The allegation against the applicant is not of mere presence at the spot but of participating in the assault in a manner directly connected to the fatal outcome. The FIR mentions that the applicant lifted the victim Mustafa and threw him to the ground, and thereafter joined in the assault along with others. More significantly, the prosecution case is that the applicant assaulted the deceased, Sannam Khan, on his head and chest.

10. The postmortem report clearly records that the cause of death was haemorrhage and shock due to a stab injury over the abdomen, which caused damage to vital structures. The nature and location of the injury, as well as the medical opinion, prima

facie support the prosecution version that the said injury was sufficient in the ordinary course of nature to cause death. Material on record indicates that the applicant is alleged to be the author of this injury.

11. The submission of the applicant's counsel that he was merely a bystander and did not participate in the crime is, at this stage, contradicted by the FIR, the eye-witness statements, and the medical evidence. The version of the prosecution is further supported by consistent statements of material witnesses recorded under Section 161 of the Cr.P.C. This is not a case where the role of the applicant is vague or uncertain.

12. The argument on the ground of parity with co-accused Akhtar, Zubair, Matin, and Abid also does not impress this Court. The principle of parity applies when the role attributed to the co-accused already granted bail is similar in nature and gravity to that of the applicant. In the present case, the role of the co-accused is clearly distinguishable. For instance, Zubair is alleged to have assaulted with a wooden stick, Abid with a piece of brick, others with fists and blows, whereas the fatal injury is specifically attributed to the applicant. In such circumstances, the principle of parity cannot be invoked.

13. The allegations, if proved, disclose the commission of a heinous offence punishable with death or imprisonment for life. The applicant is alleged to be the main assailant responsible for the fatal injury. The gravity of the offence, coupled with the specific and direct role attributed to the applicant, militates against

the grant of bail at this stage. There is a reasonable apprehension that if released on bail, the applicant may influence the witnesses or tamper with the evidence, particularly when most of the prosecution witnesses are from the same locality.

14. Having regard to the totality of circumstances, the material on record, and the settled principles governing the grant of bail in offences of this nature, I am of the considered opinion that no case is made out for grant of bail to the applicant.

15. Accordingly, the bail application stands rejected.

(AMIT BORKAR, J.)