

AGK

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

BAIL APPLICATION NO.772 OF 2025

Usman Shah @ Paplet S/o. Atikul Shah ... Applicant
V/s.
 The State of Maharashtra ... Respondent

Mr. Ajit M. Savagave for the applicant.

Ms. Pallavi N. Dabholkar, APP for the respondent-State.

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CORAM : AMIT BORKAR, J.

DATED : JULY 2, 2025

P.C.:

1. This is a bail application preferred by the applicant under Section 439 of the Code of Criminal Procedure, 1973, seeking regular bail in connection with Crime Register No.162 of 2021 registered with Kalwa Police Station, for alleged offences punishable under Sections 302, 307, 323, and 504 read with Section 34 of the Indian Penal Code, 1860.

2. As per the prosecution case, on 20th May 2021, at about 10:00 a.m., the informant along with two of his friends were returning after consuming liquor, when they noticed a couple. In the course of an altercation that ensued with the said couple, two individuals who were present at the spot allegedly assaulted the informant and his companions. It is alleged that the present applicant inflicted multiple stab wounds on the deceased, resulting in twenty injuries, most of which were incised wounds and stab

injuries, leading to the death of one person.

3. Learned counsel for the applicant submits that the applicant was arrested on 22nd May 2021 and has remained in custody since then. It is further submitted that though more than four years have passed, charges are yet to be framed and the trial has not commenced. The prosecution has cited 14 witnesses, and considering the pace of trial, it is unlikely that the matter will be concluded in the near future. It is, therefore, urged that continued incarceration of the applicant would amount to pre-trial punishment, and hence, he deserves to be released on bail.

4. On the other hand, the learned APP vehemently opposed the bail application. It is contended that the nature of allegations are grave, particularly considering that the deceased sustained twenty injuries, most of which are stab wounds. It is, therefore, submitted that the applicant does not deserve to be enlarged on bail, as his act is brutal and shows intent to cause death.

5. I have perused the charge-sheet and also gone through the statement of witnesses recorded during the course of investigation. The postmortem report, particularly Column No.17, clearly reflects that the deceased had sustained multiple grievous injuries, including stab wounds. There is no doubt that the allegations are serious in nature and the manner of assault, as reflected in the postmortem findings, shows a degree of brutality.

6. However, the fact remains that the applicant has been incarcerated since 22nd May 2021. Despite lapse of more than four years, the charges are yet to be framed and the trial has not

commenced. The right to have a speedy trial is a fundamental right under Article 21 of the Constitution of India. The Hon'ble Supreme Court in the case of *Javed Gulam Nabi Shaikh v. State of Maharashtra & Anr.*, reported in (2024) 9 SCC 813, has reiterated that prolonged incarceration without progress in trial can be a valid ground for grant of bail, especially when the trial is not likely to be concluded in the foreseeable future. The Court in the said judgment has emphasized that mere gravity of the offence cannot override the constitutional guarantee of a fair and expeditious trial.

7. In the present case, considering that the charges are yet to be framed and the applicant has already undergone a period of custody exceeding four years, and having regard to the settled principles laid down by the Supreme Court, this Court is of the opinion that continued detention of the applicant without trial would not be justified. The possibility of the trial being concluded in near future appears bleak. Therefore, this Court finds it appropriate to enlarge the applicant on bail, subject to stringent conditions to ensure his presence during trial and to prevent tampering with prosecution witnesses.

8. 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.162 of 2021 registered with Kalwa Police Station for offences punishable under Sections 302, 307, 323, 504 read with 34 of the Indian Penal

Code, 1860, 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 Kalwa Police Station on first Monday of every month between 10.00 a.m. and 12.00 noon;
- 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) The applicant shall not involve himself in any similar offence during the pendency of the trial; and
- g) If any of the above conditions are breached, it shall be open to the prosecution to seek cancellation of bail.

9. The bail application is allowed and disposed of.

(AMIT BORKAR, J.)