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

BAIL APPLICATION NO.810 OF 2025

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Ijan @ Ejaan Alam Naushad Alam
Shaikh

... Applicant

V/s.

The State of Maharashtra

... Respondent

Mr. Milan A. Desai with Mr. Rohan K. Naidu and
Sudeep R. Sharma for the applicant.

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

CORAM : AMIT BORKAR, J.

DATED : JULY 10, 2025

P.C.:

1. By this application filed under Section 439 of the Criminal Procedure Code, 1973, the applicant is seeking regular bail in connection with Crime No. 855 of 2022, registered with Malwani Police Station, Mumbai, for offence punishable under Section 302 of the Indian Penal Code, 1860 (punishment for murder).

2. The prosecution case, in brief, is as follows: On 25th June 2022, around 12:19 p.m., while the officer on duty at Malwani Police Station was patrolling, a message was received on the police van tablet about the death of a woman. Upon reaching the spot, the officer found a woman lying unconscious, surrounded by local people. Amongst them, one Mr. Zubair Naushad Alam, aged 26

years, stepped forward and informed that the said woman was his wife, Mrs. Shahedabegum Zubair Alam, aged 24 years (now deceased). He stated that the deceased was unwell for the past few days.

3. The woman was immediately sent to the hospital, where the doctor declared her brought dead. Initially, an Accidental Death Report (A.D.R.) was registered as A.D. No. 104 of 2022, under Section 174 of the CrPC, by the concerned officer.

4. Later, when the deceased's body was taken to Shatabdi Hospital, Kandivali (West), a detailed inquest panchnama was conducted in presence of two panch witnesses. It was noticed that the deceased had two sores on each cheek, injuries around the neck and ear, and a long black ulcer measuring about 22 to 23 cm on the right side of the chest, indicating unnatural injuries. The deceased's husband gave a general statement, stating that he was unaware about the cause of her death. A small glass bottle with blue-coloured liquid was found on the kitchen counter during spot panchnama.

5. On 26th June 2022, a postmortem was conducted at Borivali Autopsy Centre. The preliminary report, signed by Medical Officer Dr. Bhale Patil, stated that the cause of death was "Asphyxia due to ligature mark". Further samples like viscera, hair, nails, and blood were collected for chemical analysis (C.A.). The report indicated that the deceased was strangulated and mutilated, which points to homicide by an unknown person.

6. After receiving the cause of death, the police converted the

A.D.R. into an FIR, registering the offence as murder against an unknown person, who allegedly entered the house and committed the crime on 25th June 2022.

7. The learned advocate for the applicant submitted that the entire prosecution case is based on circumstantial evidence. It is alleged that the applicant, who is the brother-in-law of the deceased, was seen leaving the spot after the incident. It is further alleged that he had a motive, as he suspected the character of the deceased. However, the learned advocate pointed out that the statements of the witnesses merely show that the deceased was seen going towards her home with her child. Later, it was the child who informed others about the incident. Since the child is a close family member, and the applicant was known to the child, being his uncle, the version of the child is relevant and must be carefully evaluated. It is argued that the chain of circumstances is not complete to conclusively establish guilt. Hence, the applicant is entitled to be released on bail.

8. Per contra, the learned APP opposed the bail application and submitted that the presence of the applicant at the relevant time and place is established by independent witness statements. It is further submitted that there existed a motive, and the conduct of the applicant raises suspicion. The learned APP contended that the material on record prima facie discloses the involvement of the applicant, and therefore, bail may be rejected.

9. I have carefully considered the rival submissions of the learned advocate for the applicant and the learned APP for the

State. I have also gone through the material placed on record, including the FIR, inquest panchnama, postmortem report, statements of witnesses, and other investigation papers.

10. It is not in dispute that the present case is based on circumstantial evidence. There is no direct evidence to show that the applicant committed the offence. It is the prosecution case that the applicant, who is the brother-in-law of the deceased, was last seen near the place of occurrence and had motive to commit the offence. However, a bare perusal of the witness statements reveals that no witness has actually seen the applicant committing any overt act. The alleged motive is based on mere suspicion regarding strained relations and is not supported by any cogent material or prior complaints.

11. The child witness, though known to the applicant, has not directly implicated the applicant in the offence. The child is of tender age and merely stated that the mother was found in an unconscious condition. This version, though important, does not clearly establish the role of the applicant in the incident. Moreover, the chain of circumstances, which must be so complete as to rule out every hypothesis of innocence, is not complete at this stage.

12. The initial registration of the case was under Section 174 of CrPC as an accidental death, and only upon receipt of the postmortem report, it was converted into an FIR for murder against an unknown person. It is only later that the suspicion came to be cast upon the present applicant. In such circumstances, mere presence near the spot, without any clear evidence linking the

applicant with the cause of death, is not sufficient to deny bail, particularly when trial is yet to commence.

13. The applicant has been in custody since his arrest, and no substantial progress appears to have taken place in the trial. The investigation is complete and the chargesheet has been filed. Therefore, further custodial interrogation is not required. The applicant has roots in society, and it is not the case of the prosecution that he would abscond or tamper with evidence, if released on bail.

14. In the above background, and having regard to the principles laid down in the decisions of the Supreme Court regarding grant of bail in cases based on circumstantial evidence, I am of the considered opinion that a case for grant of bail is made out.

15. Hence, the following order is passed.

16. The applicant Ijan @ Ejaan Alam Naushad Alam Shaikh is directed to be released on bail in connection with Crime No.855 of 2022 registered with Malwani Police Station for offence punishable under Section 302 of the Indian Penal Code, 1860, upon furnishing a personal bond of Rs.50,000/- (Rupees Fifty 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 not tamper with the evidence or attempt to influence any witness.
- b) The applicant shall appear before the Trial Court on every date of hearing unless prevented by sufficient cause.

- c) The applicant shall report to the Malwani Police Station on the first Monday of every month between 10.00 a.m. and 12.00 noon, until further orders.
 - 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.
17. The bail application stands disposed of in the aforesaid terms.

(AMIT BORKAR, J.)