

AGK

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

BAIL APPLICATION NO.815 OF 2025

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Shoaib Raees Shaikh

... Applicant

V/s.

The State of Maharashtra

... Respondent

Ms. Afreen Bano Shaikh for the applicant.

Mr. Sagar R. Agarkar for the respondent-State.

Mr. D.S. Sonawane, PSI, Deonar Police Station,
Mumbai, is present.

CORAM : AMIT BORKAR, J.

DATED : JULY 14, 2025

P.C.:

1. By the present application filed under Section 439 of the Code of Criminal Procedure, 1973, the applicant seeks regular bail in connection with Crime Register No.210 of 2024 registered with Deonar Police Station. The applicant is facing prosecution for offences punishable under Sections 302 (murder), 307 (attempt to murder), 324, 323, 506(2), 120-B, 143, 144, 145, 147, 148, 149 read with Section 34 of the Indian Penal Code, 1860 and Sections 37(1)(A) read with 135 and 142 of the Maharashtra Police Act, 1951.

2. The prosecution case, in brief, is that on 17th May 2024 at about 7:00 p.m., at Dr. A.P.J. Abdul Kalam Garden near Dog Hospital, Dr. Zakir Hussain Nagar, Deonar, Mumbai, within the

limits of Deonar Police Station, due to previous enmity, the accused persons namely Chand, Shoeb, Afzal and Salim, including the present applicant, formed an unlawful assembly and jointly assaulted the informant and his brothers. It is alleged that accused Afzal and Salim assaulted the informant with a belt (Patta), and accused Shoeb (present applicant) handed over a knife to accused Chand with an instruction to kill Shahbaj. Acting on that instruction, accused Chand stabbed Shahbaj in the chest, causing him grievous injury. When Shahbaj's brother Sirtaj intervened to save him, accused Chand also attacked him with the same knife on his leg. The informant and his brothers raised an alarm, upon which local residents gathered at the spot. However, accused Chand threatened them with dire consequences if they tried to intervene. Thereafter, all the accused persons fled from the scene. The injured brothers were taken to Shatabdi Hospital, where Shahbaj was declared dead and Sirtaj was shifted to Sion Hospital for further treatment. The informant then approached the Deonar Police Station and lodged the First Information Report.

3. Learned counsel for the applicant submitted that the applicant has been falsely implicated in the crime. It was argued that the case rests on circumstantial evidence and there is no direct involvement of the applicant in the alleged incident. The applicant, it is submitted, neither assaulted the deceased nor inflicted any injury. It is further contended that no recovery or discovery has been made from the present applicant. The applicant has been in custody since 19th May 2024 and is a permanent resident of Mumbai. It is assured that the applicant is ready to abide by any

condition that may be imposed by the Court and, therefore, the applicant may be enlarged on bail.

4. On the other hand, learned APP has strongly opposed the grant of bail. She pointed out that the name of the present applicant finds mention in the FIR itself. It is submitted that the applicant, along with other co-accused, formed an unlawful assembly with a common object and actively participated in the offence. The specific role attributed to the applicant is that he handed over the weapon (knife) to co-accused Chand, thereby directly facilitating the murder of Shahbaj. It is further submitted that statements of eye-witnesses clearly implicate the applicant not only for his presence at the scene but also for his active role in the commission of the offence. Moreover, it is submitted that the applicant has seven prior criminal antecedents involving bodily offences including under Section 307 IPC (attempt to murder). On the date of the offence, the applicant was already under an externment order passed in respect of Thane and Mumbai Suburban areas, yet he entered Mumbai in violation of the said order and committed the present offence. In such circumstances, the prosecution submits that there is a serious risk of the applicant repeating similar offences if released on bail. Hence, the prayer for bail be rejected.

5. I have carefully considered the submissions advanced by 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 copy of the FIR, statements of eye-witnesses, and the antecedent record of the applicant.

6. The allegations against the applicant are not of a general or passive nature. On the contrary, the specific role attributed to the applicant is that he handed over the knife to co-accused Chand and instigated him to commit murder of the deceased Shahbaj. Immediately thereafter, accused Chand used the same weapon to fatally stab the deceased in the chest. The direct facilitation of the assault by the applicant, as alleged, indicates *prima facie* his active involvement in the commission of the offence. Furthermore, it is also alleged that the applicant was part of an unlawful assembly which jointly assaulted the informant and his brothers with a common object to cause grievous harm.

7. The record further reveals that the applicant has seven prior criminal cases, many of which involve serious bodily offences, including under Section 307 of the IPC. The presence of these antecedents is a relevant consideration while deciding the question of bail, as it reflects on the propensity of the applicant to indulge in similar acts of violence. Moreover, it is not in dispute that an externment order was in force against the applicant on the date of incident, prohibiting his entry into the Mumbai and Thane areas. In spite of such order, the applicant unlawfully entered the city and committed the present offence, which demonstrates complete disregard for the law and lawful authority.

8. Considering the gravity and seriousness of the offence, the specific overt act attributed to the applicant, and the risk of re-offending, this Court is of the opinion that the applicant is not entitled to the extraordinary relief of bail at this stage. The possibility of tampering with witnesses or creating fear in the

minds of public witnesses, especially in view of the applicant's antecedents and past conduct, cannot be ruled out. The investigation appears to be at a crucial stage and enlarging the applicant on bail is likely to adversely affect the process of fair investigation and trial.

9. In view of the above, no case is made out for grant of bail. The application is accordingly rejected.

(AMIT BORKAR, J.)