

Shabnoor

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

BAIL APPLICATION NO.854 OF 2025

Sultan Mehmood Shaikh	... Applicant
V/s.	
The State of Maharashtra	... Respondent

Mr. Manish K. Mazgaonkar for the applicant.

Mrs. Mahalakshmi Ganapathy, APP for the respondent-State.

Mr. Samadhan Magade, API, Mumbra Police Station, Thane, is present.

CORAM : AMIT BORKAR, J.

DATED : JULY 22, 2025

P.C.:

1. By the present application filed under Section 483 of the Bhartiya Nagarik Suraksha Sanhita, 2023 (hereinafter referred to as “BNSS”), the applicant is seeking regular bail in connection with Crime Register No.1680 of 2024 registered with the Mumbai Police Station for offences punishable under Sections 103(1), 238, 217 read with Section 3(5) of the Bhartiya Nyaya Sanhita, 2023 (for short, “BNS”).

2. As per the case of the prosecution, one PSI Rajendra Ramchandra Kingare was conducting an inquiry in respect of ADR No.245 of 2024. During the course of the said inquiry, he came to know from reliable sources that the deceased had been brought to the place of incident by two persons in a rickshaw. Upon further

inquiry with the rickshaw driver, it came to light that the deceased was brought to the scene of offence by co-accused Ritesh and the present applicant. It is further stated that during the journey, PSI Kingare overheard a conversation between the applicant and co-accused Ritesh, wherein it was disclosed that the applicant, along with co-accused Jitesh, Ritesh, and Akash, had jointly assaulted the deceased. On the basis of the information so received, and upon due inquiry, PSI Kingare formed an opinion that the applicant had, in active participation and conspiracy with the other co-accused, committed the offence which led to the death of the victim. Accordingly, a report came to be filed implicating the applicant and the other co-accused for the alleged offences.

3. Learned Advocate appearing for the applicant submits that the role attributed to the present applicant is similar to the role of co-accused Jitesh and Akash Bhoir, who have already been released on bail. It is submitted that the implication of the applicant is based on an extra-judicial confession allegedly made by the co-accused Ritesh to the rickshaw driver. It is, therefore, contended that the applicant is entitled to be released on bail on the ground of parity. It is also submitted that the investigation is now complete and the charge-sheet has already been filed before the competent Court. The applicant has been behind bars since 26th July 2024. It is submitted that the trial may take a long time to conclude and hence, continued incarceration of the applicant would cause undue hardship and prejudice. On these grounds, the applicant prays for being released on regular bail.

4. On the other hand, the learned Additional Public Prosecutor has strongly opposed the bail application. It is submitted that three eyewitnesses have given specific accounts indicating the direct and active involvement of the present applicant, along with co-accused Ritesh, in the act of assaulting the deceased, which ultimately caused his death. It is pointed out that the co-accused who have been released on bail did not play such an active role in the assault. The role attributed to the present applicant is of direct participation in the fatal assault, as per the version of three eyewitnesses. Therefore, the learned APP submits that the extra-judicial confession made to the rickshaw driver cannot be the sole basis to apply the principle of parity in favour of the applicant. The case of the applicant stands on a distinct and graver footing than those of the co-accused who have been enlarged on bail. Considering the gravity and seriousness of the offence, and the material showing active role of the applicant in the commission of the crime, the learned APP submits that the applicant does not deserve to be released on bail at this stage.

5. I have given my thoughtful consideration to the rival submissions advanced by the learned counsel for the applicant and the learned APP for the State. I have also perused the material placed on record, including the statements of the witnesses and the report filed by the Investigating Officer.

6. It is to be noted that the present applicant is facing serious accusations under Sections 103(1), 238, and 217 read with Section 3(5) of the Bhartiya Nyaya Sanhita, 2023, which pertain to the commission of a grave and heinous offence resulting in the

death of a person. The prosecution case, as disclosed from the investigation papers, prima facie indicates that the applicant was not a mere bystander or a passive participant. On the contrary, the statements of three eyewitnesses have specifically implicated the applicant and co-accused Ritesh as having played an active and direct role in the assault on the deceased.

7. The doctrine of parity cannot be blindly applied in a mechanical manner. It is well settled that parity can be claimed only when the role of the applicant is shown to be identical or substantially similar to that of the co-accused who has been granted bail. In the present case, the co-accused who have been released on bail, namely Jitesh and Akash Bhoir, do not appear, at this stage, to have played an equally direct and proximate role in the actual act of assault, as compared to the role attributed to the present applicant. The evidence of three independent eyewitnesses, which forms part of the charge-sheet, clearly and consistently indicates that the applicant was actively involved in inflicting injuries on the deceased, which proved to be fatal.

8. The submission that the implication of the applicant is based merely on an extra-judicial confession made by co-accused Ritesh to the rickshaw driver does not hold water when examined in the light of the cumulative material on record. The role of the applicant stands corroborated not only by the rickshaw driver's version but also by the independent eyewitnesses, which gives the prosecution case an added layer of credibility. Therefore, the plea for parity is wholly misconceived and cannot be accepted.

9. Further, merely because the charge-sheet has been filed and the applicant is in custody since 26th July 2024, that by itself, in the facts and circumstances of the present case, cannot be a ground for grant of bail. The seriousness of the offence, the manner in which the alleged crime was committed, and the material indicating the applicant's active involvement in a group assault resulting in the death of a human being, are factors which weigh heavily against the applicant.

10. At this stage, it cannot be ignored that the offence is not only grave but also affects the very fabric of public order and the sense of safety in society. The possibility of the applicant tampering with witnesses or attempting to influence the trial, though not directly alleged, cannot be ruled out considering the nature of the crime and the number of co-accused involved.

11. Therefore, this Court finds no justifiable reason to enlarge the applicant on bail. The possibility of delay in the trial, though relevant, cannot outweigh the nature and gravity of the offence and the prima facie material pointing towards the applicant's complicity.

12. In view of the aforesaid discussion, the bail application stands rejected.

(AMIT BORKAR, J.)