

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
Criminal Bail Application No.861 of 2025

Rushikesh @ Gatalu Fakira Donde
Age-24 yrs, Occ: Office boy,
R/of Rajwada, Mhasrul, Taluka
and District Nashik.
(Currently in Central Prison Nashik)

... Applicant.

Versus

The State of Maharashtra
At the instance of Mhasrul Police
Station, Nashik.

... Respondent.

Mr Akshay Bankapur for the applicant.
Mr PP Jadhav, APP for the respondent / State.
PSI DY Patare, Mhasrul Police Station.

Coram : R.N.Laddha, J.
Date : 14 October 2025.

P.C. :

By this application, the applicant seeks bail under Section 439 of the Code of Criminal Procedure, 1973, in connection with CR No.260 of 2023, registered with Mhasrul Police Station, Nashik, for the offences punishable under Sections 302, 341, 427 read with 34 of the Indian Penal Code and Section 135 of the Mumbai Police Act.

2. It is the case of the prosecution that, on 27th November 2023, between approximately 18:30 hours and 19:00 hours, the informant, accompanied by her husband, was proceeding in a private vehicle towards Mhasrul via the Mhasrul Link Road. During the course of travel, the informant observed three unidentified male individuals standing obstructively in the middle of the said roadway. Upon halting their vehicle and making verbal inquiries with the said individuals regarding their presence on the thoroughfare, the informant alleges that the said persons began hurling abusive and profane language directed at her husband, who is the spouse of the applicant herein. Subsequently, the informant witnessed one of the aforementioned individuals intercept another white-colored vehicle travelling on the same road and willfully damage the said vehicle by smashing the driver's side window pane. In response to the escalating situation, the husband of the applicant alighted from his vehicle with the intent to pacify the individuals and requested them to vacate the carriageway to avoid further obstruction and disturbance. At that juncture, one of the assailants, without provocation, allegedly assaulted the husband of the applicant by inflicting

a stab wound to his chest using a sharp-edged weapon, causing him to collapse on the public road. Immediately thereafter, law enforcement personnel arrived at the scene and apprehended the individual alleged to have committed the stabbing. Observing the grievous nature of the injuries sustained by the victim, the police officials facilitated his immediate transfer to Synergy Hospital for emergency medical treatment. Upon preliminary examination, the victim was referred to Civil Hospital, where he was declared dead upon arrival.

3. Mr Akshay Bankapur, learned Counsel appearing on behalf of the applicant, submits that the applicant is entirely innocent and has been wrongfully and maliciously implicated in the alleged offence. The learned Counsel asserts that the applicant's name does not find mention either in the First Information Report (FIR) or in the supplementary statement recorded by the informant. It is further submitted that there is no incriminating material whatsoever, nor is there any overt act attributed to the applicant which may connect him with the commission of the alleged offence. The learned Counsel also draws attention to the fact that the deceased sustained a solitary

injury, which, as per the prosecution's own case, was inflicted by the co-accused and not by the present applicant.

4. The learned Counsel further submits that, although the prosecution asserts that the applicant was apprehended at the scene of the incident immediately following the alleged assault, the recovery of the weapon purportedly used in the commission of the offence was effected only on the following day during the applicant's custodial interrogation. It is further submitted that the applicant has been languishing in jail since 28 November 2023 and has remained incarcerated for a considerable duration. The investigation in the present matter has been concluded, and the chargesheet has been duly filed before the competent Court. There is no further recovery or discovery pending from the applicant. The learned Counsel also points out that although the chargesheet has been filed, the charges are yet to be framed, and the commencement and conclusion of the trial are likely to be protracted. It is further contended that the applicant is entitled to be released on bail on the ground of parity, as one of the co-accused has already been granted bail.

5. On the other hand, Mr PP Jadhav, the learned Additional Public Prosecutor appearing on behalf of the respondent/State, has vehemently opposed the present application for bail. He submits that the offence is of a grave and serious nature, involving a fatal assault committed in a public setting. It is contended that the deceased, upon witnessing the accused persons vandalising the motor vehicles and using abusive language, intervened with the intention of pacifying the situation. During the course of such intervention, the deceased was stabbed by the co-accused. The present applicant, took possession of the weapon from the co-accused and absconded from the scene prior to being apprehended.

6. The learned APP places reliance on the statement of the eyewitness, one Mr Satish, who has categorically stated that the applicant took the knife from the co-accused and fled the *locus delicti* immediately thereafter. It is further submitted that the present bail application is premature and in contravention of the conditional liberty extended by this Court vide its order dated 12 August 2024 in Bail Application No.2339 of 2024. By the said order, the applicant was permitted to renew his prayer for bail only

upon the lapse of one year. However, the instant application was preferred on 20 February 2025, thereby violating the stipulated timeline and rendering the application procedurally untenable.

7. The learned APP further submits that the prosecution's case is supported by multiple eyewitnesses whose statements are consistent and unequivocal in attributing specific culpability to the applicant. The weapon used in the commission of the offence was recovered pursuant to the disclosure made by the applicant, thereby establishing a chain of incriminating circumstances. Moreover, the applicant has been duly identified in the Test Identification Parade conducted during the course of the investigation, further corroborating his involvement. The learned APP expresses grave apprehension that enlargement of the applicant on bail may lead to tampering with the prosecution evidence and exert undue influence on witnesses.

8. This Court has given anxious consideration to the rival submissions canvassed across the Bar and perused the records. It appears from the record that all the accused

persons, including the present applicant were under the influence of alcohol and engaged in stopping and damaging vehicles with the intent to extort money from passengers. The record reveals that a specific and active role is attributed to the applicant in the commission of the offence. Eyewitnesses have consistently implicated the applicant and stated that the accused persons were involved in extorting money and damaging vehicles. The weapon allegedly used in the commission of the offence was recovered at the behest of the applicant, and a Hero Honda Splendour motorcycle was also seized from him. There is material on record to show that the applicant was seen in possession of the weapon prior to the incident also.

9. The deceased and the accused persons were unknown to each other, and an innocent deceased was fatally assaulted. The record indicates that all accused persons participated in the assault, with the co-accused stabbing the deceased in the chest, and the present applicant fleeing the scene with the weapon immediately thereafter. The Autopsy Report confirms that the deceased succumbed to the stab injury. The role attributed to the co-accused who has been released on bail is not identical to that of the present

applicant and hence, the principle of parity is inapplicable. There exists *prima facie* sufficient material on record demonstrating the applicant's active participation in the commission of the offence and his subsequent attempt to conceal the weapon. The cumulative circumstances weigh against the grant of bail.

10. In view of the foregoing, this Court is not inclined to exercise its discretion in favour of the applicant. Accordingly, the present bail application stands rejected.

[R. N. Laddha, J.]