

AGK

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

BAIL APPLICATION NO.995 OF 2025

Shadabali Irshadali Shaikh	... Applicant
V/s.	
The State of Maharashtra	... Respondent

Mr. Mitesh Varshney for the applicant.

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

Mr. Sandeep Kale, PSI, Malawani Police Station, Mumbai, is present.

CORAM : AMIT BORKAR, J.

DATED : SEPTEMBER 2, 2025

P.C.:

1. By way of the present application filed under Section 439 of the Criminal Procedure Code, 1973 ("Cr.P.C." for short), the applicant seeks his release on regular bail in connection with Crime Register No.208 of 2017 registered with Malvani Police Station, Mumbai. The said crime has been registered for the offence punishable under Section 302 of the Indian Penal Code, 1860 ("IPC" for short).

2. The case of the prosecution, in brief, is that the deceased, Shamima Sultana Shadab Ali Shaikh, was subjected to severe burns by hot oil poured on her by her husband, who is the present applicant. Before her death, the deceased gave a statement narrating that her marital life with the applicant was marred by

Digitally
signed by
ATUL
GANESH
KULKARNI
Date:
2025.09.02
19:00:53
+0530

continuous quarrels for the past 8 to 9 years. She also stated that the applicant frequently doubted her character and suspected her of having illicit relationships. On 22 March 2017, the deceased had gone to her office. When the applicant attempted to call her repeatedly, she switched off her mobile phone. Later in the evening, around 8.00 p.m., when she switched on her phone, the applicant immediately called her, inquiring whether she had reached near the house and also informed her that he was waiting inside.

3. The applicant was then cooking chicken at the house and asked the deceased to eat it for the last time, stating that he would never return thereafter. In his words, “Mere haath se aakhiri bar chicken kha lo, baad me main nahi aaoonga.” At that moment, the applicant suddenly poured hot oil on the deceased, uttered the words “sorry jaan,” and ran away from the spot.

4. On the same day, around 9.30 p.m., while still alive, the deceased made a statement before the police officers specifically naming her husband and stating that he had poured hot oil on her body with the intention to kill her. On the basis of this statement, Crime No.208 of 2017 came to be registered initially under Section 307 of the IPC. During investigation, the police seized utensils and clothes from the place of incident. The applicant, during his interrogation, admitted to the act. He was arrested and remanded to police custody till 27 March 2017. However, during treatment, at about 12.10 a.m. on 16 April 2017, the deceased succumbed to her injuries at Oscar Hospital, following which the offence was converted to Section 302 of the IPC.

5. Learned Advocate appearing for the applicant submits that the applicant was arrested on 23 March 2017. Later, due to the Covid-19 pandemic, he was released on temporary bail by order dated 27 May 2020, which continued till withdrawal of the Notification by the State Government. The Notification was withdrawn on 31 March 2022. It is further submitted that the applicant continued to mark his attendance even thereafter, as seen from Exhibit-M on record. According to him, he was advised by his Advocate that the prosecution may take him into custody after completing the necessary formalities, and therefore, he remained available till December 2023. The applicant has already undergone custody of about four years and ten months. Though charges are framed, the prosecution has cited as many as 19 witnesses, and the trial is not likely to conclude in the near future. Hence, it is submitted that in recognition of his fundamental right to life and liberty under Article 21 of the Constitution of India, the applicant deserves to be enlarged on bail.

6. Per contra, the learned APP strongly opposed the application. She submitted that the allegations against the applicant are grave in nature, as the offence involves the murder of his own wife. According to her, the gravity of the crime must be balanced with the consideration of personal liberty, and in such circumstances, the applicant is not entitled to the discretionary relief of bail. She, therefore, prayed that the bail application be rejected.

7. I have considered the rival submissions advanced on behalf of the applicant and the learned APP for the State. I have also perused the material placed on record, including the dying

declaration of the deceased, the seizure panchnamas, and the custody record of the applicant.

8. It is not in dispute that the applicant was arrested on 23 March 2017 and has undergone incarceration of about four years and ten months. Thereafter, he was enlarged on temporary bail by virtue of the orders issued during the Covid-19 pandemic. Even after the withdrawal of the Notification dated 31 March 2022, the record (Exhibit-M) shows that the applicant continued to mark his attendance and did not abscond. This conduct reflects that the applicant has respected the process of law and has remained available whenever required.

9. It is also a matter of record that the charges have been framed, and the prosecution has cited 19 witnesses. Considering the nature of the trial and the number of witnesses, there is no likelihood of its early conclusion. Prolonged incarceration without final adjudication of guilt would amount to denial of the applicant's right to speedy trial, which is an integral part of Article 21 of the Constitution of India.

10. The seriousness of the allegations cannot be overlooked, and the same will be tested during trial. However, at this stage, the Court is required to balance the right of the accused to liberty with the necessity of ensuring his presence for trial. The applicant has already undergone substantial period of custody, and there is nothing on record to indicate that he has misused the liberty granted to him earlier or that he is likely to abscond if released on bail.

11. In view of the above circumstances, I am of the considered opinion that a case for grant of bail is made out. The apprehensions expressed by the prosecution can be safeguarded by imposing stringent conditions.

12. Hence, following order is passed:

- i) The bail application is allowed;
- ii) The applicant is directed to be released on regular bail in connection with Crime Register No.208 of 2017 registered with Malavani Police Station, Mumbai for offences punishable under Section 302 of the IPC, upon furnishing provisional cash of Rs.25,000/- (Rupees Twenty Five Thousand Only);
- iii) Within a period of eight weeks from the date of release of the applicant on regular bail, he shall furnish 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 evidence, or directly or indirectly contact, influence, threaten, or intimidate any witness, particularly family members of the deceased.
 - (b) The applicant shall report to the Malawani Police Station, Mumbai once in a month, specifically on the 1st Monday of each month, between 10:00 a.m. and 12:00 noon, until further orders.

(c) The applicant shall not leave the territorial jurisdiction of the State of Maharashtra.

(d) The applicant shall not commit any offence or engage in any criminal activity during the pendency of the trial.

(e) The applicant shall, at the time of furnishing surety, provide his current residential address and mobile number to the Investigating Officer as well as the Trial Court, and shall inform the Court in writing of any change in residence or contact details during the pendency of the case.

(f) In case of any breach of the conditions mentioned above, the prosecution shall be at liberty to move for cancellation of bail.

13. The bail application is allowed and disposed of.

(AMIT BORKAR, J.)