

Amberkar

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO. 1288 OF 2025

Mohammad Shamim Mohammad Jannat Ansari .. Applicant

Versus

State of Maharashtra .. Respondent

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- Mr. A.R. Bukhari for Applicant
- Mr. Hitendra J. Dedhia, APP for State

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CORAM : MILIND N. JADHAV, J.

DATE : APRIL 3, 2025

P. C.:

1. Heard Mr. Bukhari, learned Advocate for Applicant and Mr. Dedhia, learned APP for State.

2. Applicant - accused has filed the present Application for regular bail under Section 439 of the Code of Criminal Procedure, 1973 (for short, "**Cr.PC.**") in connection with C.R. No. I-223/2014 registered with Bhoiwada Police Station for the offences punishable under Section 302 of the Indian Penal Code, 1860 (for short, "**IPC**").

3. On 01.04.2025, after hearing learned Advocates appearing for the parties following order was passed:-

"1. Heard Mr. Bukhari, learned Advocate for Applicant and Mr. Dedhia, learned APP for Respondent.

2. Applicant is indicted under Section 302 of the Indian Penal Code, 1860. Date of incident is on the intervening night of 01.12.2014. Some time in the night deceased left his house to attend to his work as he was working in a power loom in Bhiwandi. He did not return thereafter but father of deceased – victim received a phone call from an anonymous

person informing him that deceased - victim was being assaulted by a group of persons who were working with him. The father rushed to the aid of the deceased – victim and found him having been inflicted with a knife blow on his neck and he was bleeding profusely. He was moved to the hospital but on the following day at about 01:35 pm deceased – victim succumbed to his injuries.

3. Mr. Bukhari would submit that despite long incarceration for a period of 9 years 9 months the trial in the case has not commenced. He would submit that charge has been framed but prosecution has not commenced with the trial. He would persuade the Court to consider long incarceration of Applicant pending trial and release the Applicant on bail.

4. He would submit that from the prosecution case it could be seen that deceased and Applicant were not known to each other and deceased was in fact robbed on the intervening night of 01st December, 2014 when he had gone out and a scuffle had ensued at that time which escalated in to a fight and resulted in the incident in question.

5. Mr. Dedhia, learned APP enters appearance on behalf of Respondent. Learned APP shall take appropriate instructions on the status of trial and accordingly inform the Court on the next adjourned date. Considering the humongous period long incarceration of Applicant of close to 10 years in prison pending trial and trial not having commenced as informed by the learned Advocate for Applicant, the present Application shall be heard and decided on the next adjourned date which shall be noted by prosecution.

*6. Stand over to **03rd April, 2025**. To be placed on the '**Supplementary Board**' under the caption '**First on Board**'.*

4. Learned APP in his usual fairness at the outset informs the Court that though charge has been framed, the trial has not commenced yet. Considering the aforesaid submissions and the fact that Applicant is incarcerated for 9 years 9 months & 18 days as on today, the case of the Applicant is considered for bail. Hence, Bail Application is allowed subject to the following terms and conditions:-

- (i) Applicant is directed to be released on bail on furnishing P.R. Bond in the sum of Rs. 25,000/- with one or two sureties in the like amount;

- (ii) Before his actual release from jail, Applicant shall furnish his address where he proposes to reside after his release from jail to the concerned Police Station and also to the trial Court;
- (iii) After his release from jail, Applicant shall report to the Investigating Officer as and when called for;
- (iv) Applicant shall attend the trial Court on first Tuesday of every month between 11.00 a.m. and 1.00 p.m. to mark his presence. If the first Tuesday of the said month falls on a holiday and / or non Court working day, the Applicant shall mark presence on the next working day;
- (v) Applicant shall co-operate with the conduct of trial and attend the trial Court on all dates unless specifically exempted and will not take any unnecessary adjournments, if he does so, it will entitle the prosecution to apply for cancellation of this order;
- (vi) Applicant shall not leave the State of Maharashtra without prior permission of the Trial Court;
- (vii) Applicant shall not influence with any of the witnesses or tamper with the evidence in any manner; and

(viii) In case of any infraction of the above conditions and / or two consecutive defaults in marking his attendance before trial Court, it shall attract the provisions of Section 439(2) of Cr.P.C. i.e. for cancellation of bail.

5. It is clarified that the observations made in this order are limited for the purpose of granting Bail only and I have not made any observations on merits of the case. The trial shall be adjudicated on the strength of the evidence led and strictly on its own merits being uninfluenced with any of the *prima facie* observations made herein above in this order.

6. Bail Application is allowed and disposed.

[MILIND N. JADHAV, J.]

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