

Shivgan

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO.2318 OF 2025**

Shahanawaj Hanif Shaikh

...Applicant

Versus

State of Maharashtra

...Respondent

Mr Abhishek Yende, *with Sagar Paspohe and Shubham Kahite
& Surbhi Agrawal, for the Applicant.*

Ms Manisha R Tidke, *APP for the Respondent-State.*

Mr Narayan Chavanke, *PSI attached to Vashi Police Station,
Navi Mumbai, present.*

CORAM DR. NEELA GOKHALE, J.

DATED: 7TH NOVEMBER 2025

PC:-

1. By this Application, the Applicant seeks his enlargement on bail in connection with FIR No.135 of 2024 dated 28th March 2024 registered with the Vashi Police Station, Navi Mumbai for the offences punishable under Sections 302, 307, 397 read with Section 34 of the Indian Penal Code, 1860 (for short 'IPC').

2. The case of the prosecution, in brief, is that there are in all 3 accused persons. On 28th March 2024 at about 1.30 a.m. they were traveling on a motor-cycle being driven by the Applicant and on their way to Malad, they saw the victim, Shri Mukesh Kumar Yadav, sitting outside the restaurant, carrying a bag in his hand containing proceeds of sale of the entire day's business of his hotel. Accused Nos. 1 and 2 accompanying the Applicant got off the motor-cycle with an intent to steal the said bag. While they were grabbing the said bag, there was a scuffle resulting from the resistance employed by the victim-deceased and the scuffle led to a physical altercation between the Accused Nos.1 and 2 and the victim-deceased. In the said altercation, both the victim-deceased and his staff member, who tried to save him, suffered injuries. The said Mukesh Kumar Yadav succumbed to his injuries and his staff, namely, Dinesh Kumar Yadav, who was injured, narrated the incident to the Police. Accordingly, FIR was registered and the Applicant and the co-accused were arrested.

3. The Applicant made an application seeking bail before the Additional Sessions Judge, Belapur, Navi Mumbai, however, by order dated 31st January 2025, his bail application came to be rejected. Hence, the Applicant is before this Court for the reliefs as prayed.

4. Mr. Abhishek Yende, learned counsel appearing for the Applicant, submits that the Complainant failed to recognize the Applicant in the Test Identification Parade; there is no direct evidence linking the Applicant to the commission of the alleged offence and the Applicant is implicated in the crime only on the basis of recovery of motor-cycle along with 2 mobile phones despite the fact that the registration number of the motor-cycle was not clearly visible in CCTV footage. Mr. Yende, additionally submits that the Applicant is in custody for more than 20 months; the charges are not yet framed; he is a young boy of 21 years of age and has his whole life ahead of him. He further submits that the Applicant is diagnosed with tuberculosis and needs urgent medical treatment. He

also submits that there was no evidence to prove that the Applicant was involved in any conspiracy with the co-accused and there was no meeting of minds amongst all the accused to commit the offence under Section 302 of the IPC. He thus, submits that the Applicant be granted bail.

5. Per contra, Ms. Manisha Tidke, learned APP representing the State, submits that offence is serious and the maximum sentence is that of life imprisonment. She also submits that the Applicant was recognized in the CCTV footage. It is recorded in the CCTV footage panchanama that he was seen to be escaping along with the co-accused and meeting of the minds is clearly demonstrated by the said act. In these circumstances, she submits that the Bail Application be rejected.

6. I have heard learned counsel appearing for the respective parties and perused the record with their assistance.

7. A plain reading of the FIR clearly reveals that the Applicant was merely driving the motor-cycle along with his elderly relative and his friend. The Applicant continued to sit on the motor-cycle on the driver's seat and it is apparent from the statement of the injured victim that neither the Applicant left the motor-cycle nor participated in the altercation between the co-accused and the deceased. Even the CCTV footage panchanama demonstrates that the Applicant was found to be sitting on the idling motor-cycle. *Prima facie*, there is no material against the Applicant to indicate his involvement in the actual stabbing of the deceased. Admittedly, there are no antecedents against the Applicant. The Applicant is a young boy of 21 years and it is stated that he was earlier working in Dubai and now returned home to help his father. In any case, it is not desirable that a young boy of 21 years be compelled to interact and associate with the hardened criminals, especially since *prima facie* there is no material on record to indicate any direct overt act in the commission of the offence.

8. Considering the aforesaid discussion, I am inclined to enlarge the Applicant on bail. Hence, I pass the following order:

ORDER

i) The Applicant be enlarged on bail, on executing PR Bond in the sum of Rs.50,000/ with one or two local sureties in the like amount;

ii) The Applicant shall attend the Police Station concerned once in a month on the first Monday of every month between 11:00 a.m. to 02:00 p.m., till the charges are framed;

iii) The Applicant shall attend the Trial Court concerned on each and every date unless exempted by the orders of the Trial Court concerned;

iv) If the Applicant has not deposited his passport, the Applicant shall deposit the same with the concerned Police Station, if any;

- v) The Applicant shall not leave India, without the permission of the Trial Court;
- vi) The Applicant shall not tamper or attempt to influence or contact the complainant, witnesses or any person concerned with the case;
- vii) The Applicant shall inform his latest place of residence and mobile number immediately after being released and / or change of residence or mobile details, if any, from time to time to the Court seized of the matter and to the Investigating Officer of the concerned Police Station;
- viii) The Applicant to co-operate with the conduct of the trial;
- ix) Any infraction of the aforesaid conditions shall entail cancellation of bail.

9. Application is allowed in the above terms and is accordingly disposed of.

10. It is made clear that the observations made herein are *prima facie* and are confined to this Application and the learned Trial Judge to decide the case on its own merits, uninfluenced by the observations made herein.

(DR. NEELA GOKHALE, J)

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