

Shabnoor

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

BAIL APPLICATION NO. 2863 OF 2025

Sufiyana Hanif Momin

... Applicant

V/s.

The State of Maharashtra

... Respondent

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Mr. Abdul Raheem Bukhari, for the applicant.

Ms. Mahalakshmi Ganapathy, APP for the State –
respondent.

Mr. S. D. Yewale, PSI, Narpoli Police Station is present.

CORAM : AMIT BORKAR, J.

DATED : AUGUST 26, 2025

P.C.:

1. The present application under Section 439 of the Code of Criminal Procedure, 1973, has been preferred by the applicant seeking his enlargement on bail in connection with Crime Register No. I-1146 of 2024 registered at Narpoli Police Station. The applicant stands arraigned for grave offences punishable under Sections 365, 302, 201, 120-B read with Section 34 of the Indian Penal Code, 1860 (for short, "IPC").

2. The substratum of the prosecution case, may briefly be noticed. It is alleged that the applicant, along with other co-accused persons, was involved in the murder of one Anand Gupta. The said murder, according to the prosecution, was preceded by

the act of kidnapping the deceased. The motive ascribed for the crime is referable to a strained relationship between the deceased and one Aishwarya Doiphode. The deceased is stated to have been carrying on a love affair with her. Later, when Aishwarya sought to sever the relationship, the deceased refused, and allegedly went to the extent of showing obscene photographs of her to her husband. He is further alleged to have demanded that Aishwarya's husband divorce her.

3. Aggrieved by this conduct of the deceased, Aishwarya is said to have narrated the events to her brother, Sujit Chavan. The prosecution version continues that Sujit Chavan, in the company of his associates, hatched a conspiracy to do away with the life of Anand Gupta. In execution of the said conspiracy, the present applicant, along with the other accused, participated in the commission of the murder. On these allegations, a First Information Report came to be registered, naming the applicant as one of the offenders.

4. Learned counsel appearing for the applicant has drawn attention to the statements of certain eyewitnesses as also to the CCTV footage. He submits that the role attributed to the applicant is confined to driving the car in which the deceased was placed after he had already been assaulted by the three principal assailants. It is further urged that, as per the Post-Mortem Report, the fatal injuries, two in number, were inflicted prior to the deceased being placed in the car. Thus, it is contended that the act of driving the car cannot by itself demonstrate that the applicant shared a common intention to commit the offence of murder.

Learned counsel submits that whether or not the applicant acted in concert with the co-accused is a matter which can only be adjudicated upon during trial. It is further pointed out that the applicant has been in custody since 27 September 2024, and that he has no prior criminal antecedents. On the strength of these submissions, it is prayed that the applicant be released on bail.

5. Per contra, learned APP appearing on behalf of the State has vehemently opposed the prayer for bail. It is contended that the sequence of events, namely, the accused persons arriving at the place of occurrence in a car driven by the present applicant, the assault on the deceased by the co-accused, and thereafter the act of placing the injured/deceased in the same car and fleeing the spot together, would unmistakably indicate that the applicant was acting in concert with the assailants and shared a common intention in the commission of the offence. Learned APP has submitted that these circumstances are sufficient, at least prima facie, to attract the provisions of Section 34 of the IPC. It is therefore prayed that the application be rejected.

6. I have given my anxious consideration to the rival submissions urged at the Bar and have carefully perused the material placed on record. At this stage, what falls for my determination is not the guilt or innocence of the applicant, which is a matter to be adjudicated upon during the course of the trial, but whether the applicant has made out a case for grant of bail, consistent with the well-settled parameters laid down by the Supreme Court in *State of Rajasthan v. Balchand*, (1977) 4 SCC 308, *Gudikanti Narasimhulu v. Public Prosecutor, High Court of*

Andhra Pradesh, (1978) 1 SCC 240, and subsequent pronouncements. The principle which permeates through all these decisions is that “bail is the rule and jail is the exception.”

7. It is manifest from the statements of the eyewitnesses as well as the Post-Mortem Report that the fatal injuries which resulted in the death of Anand Gupta were inflicted by the other co-accused prior to the deceased being placed in the vehicle. The part attributed to the present applicant is essentially that of driving the vehicle in which the deceased was carried thereafter. Whether such conduct is sufficient to hold that the applicant shared a common intention with the other assailants, so as to attract Section 34 of the IPC, is a matter which necessarily requires adjudication on the basis of evidence at trial. At the stage of consideration of bail, the Court cannot embark upon a detailed appreciation of evidence.

8. It is also not in dispute that the applicant has been in custody since 27 September 2024 and that he has no prior criminal antecedents. The trial is yet to commence and is likely to take considerable time for its conclusion. No material has been placed on record to suggest that, if enlarged on bail, the applicant is likely to abscond or tamper with the prosecution evidence. The apprehension voiced by the prosecution can be safeguarded by imposing appropriate conditions.

9. In the aforesaid circumstances, I am of the considered view that a case for grant of bail has been made out.

10. Hence, the following order :

(i) The Bail Application is allowed.

(ii) The applicant shall be released on bail in connection with Crime Register No. I-1146 of 2024 registered with Narpoli Police Station for offences punishable under Sections 365, 302, 201, 120-B read with Section 34 of the Indian Penal Code, (IPC, upon furnishing a Personal Bond of ₹50,000/- (Rupees Fifty Thousand only) along with one or more solvent sureties in the like amount, to the satisfaction of the learned 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 attend all proceedings before the Trial Court regularly, unless exempted by the Court on valid grounds supported by sufficient cause.

(c) The applicant shall report to the Tilak Nagar Police Station, Mumbai on the first Monday of every month between 10.00 a.m. and 12.00 noon, until further orders.

(d) The applicant shall not leave the territorial jurisdiction of the State of Maharashtra without prior written permission of the Trial Court.

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

(f) 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.

11. The Bail Application stands disposed of in above terms.

(AMIT BORKAR, J.)