

Shabnoor

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

BAIL APPLICATION NO.2949 OF 2025

Kartik Annadurai Devendra

... Applicant

V/s.

The State of Maharashtra

... Respondent

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Ms. Aafren Shaikh a/w Ms. Nikhat Shaikh for the Applicant.

Mrs. Rajashree V. Newton, APP for the State – respondent.

Ms. Dipali Pawase, API, and Aaher, API, RCF Police Station are present.

CORAM : AMIT BORKAR, J.

DATED : AUGUST 25, 2025

P.C.:

1. The present application has been filed by the applicant under Section 439 of the Code of Criminal Procedure, 1973, seeking his release on regular bail in connection with Crime Register No.318 of 2024 registered at RCF Police Station, Mumbai. The applicant is presently in custody in connection with offences punishable under Sections 302 (murder), 452 (house trespass after preparation for hurt, assault or wrongful restraint), 141, 143, 147, 149 (unlawful assembly and rioting), 323 (voluntarily causing hurt), 504 (intentional insult with intent to provoke breach of peace), 506(2) (criminal intimidation), 120-B (criminal conspiracy), and 34

(common intention) of the Indian Penal Code, 1860.

2. The prosecution story, in brief, is that the incident occurred on 11th May 2024 at about 1:11 a.m. The informant received a telephone call from his maternal aunt (Mami), Smt. Shila, informing him that certain persons were kicking and banging on the door of his maternal uncle's (Mama's) house. On receiving this information, the informant contacted his cousin brother to ascertain the situation. Shortly thereafter, his cousin informed him that Accused No.1 along with two others was seen banging the door and threatening the maternal uncle. Later, around 6:00 to 6:30 a.m., the informant's son came running and informed him that a quarrel had broken out near the railway tracks involving his maternal uncle Pitamber and some persons. The informant rushed to the said spot and noticed his uncle being physically assaulted by the accused persons. He tried to intervene and rescue his uncle, and thereafter they somehow managed to return home. However, the accused persons allegedly followed them to their residence, where Accused No.1 is said to have caught hold of the victim's collar and assaulted him. The other accused also joined in the assault. It is specifically alleged that Accused No.1 landed fist blows on the head of the victim, causing him to lose consciousness. Thereafter, the accused persons fled from the scene. The informant and others immediately took the injured to the hospital, where he was declared dead. On the basis of these allegations, the FIR in question came to be registered at RCF Police Station.

3. Learned Counsel appearing for the applicant has placed reliance on the orders of the Coordinate Bench of this Court,

whereby co-accused, who were also alleged to have participated in the assault, have already been enlarged on bail. It is pointed out that it is not the case of the prosecution that any deadly weapon was used in the incident. The postmortem report records the probable cause of death as ischemic heart disease in a case of alleged assault. In these circumstances, it is submitted that when the co-accused similarly situated have been granted the benefit of bail, on the ground of parity the present applicant also deserves to be enlarged on bail.

4. Per contra, the learned APP has opposed the application. It is pointed out that the applicant has six prior criminal antecedents to his discredit. It is also submitted that the present offence was committed when an externment order against the applicant was already in operation. The prosecution further relies upon the statements of eyewitnesses, who have attributed a clear and specific role to the present applicant, namely that he inflicted fist blows on the neck of the deceased, which, according to the prosecution, is the direct cause of death. On these grounds, it is urged that this is not a fit case for grant of bail and the application deserves to be rejected.

5. I have carefully considered the rival submissions and also gone through the material placed on record. The FIR as well as the statements of witnesses do indicate that the applicant was present at the spot of incident and had allegedly assaulted the deceased with fist blows. However, it is not the case of the prosecution that any weapon was used by the applicant. The medical opinion shows that the probable cause of death is ischemic heart disease in a case

of alleged assault. Thus, there appears to be a reasonable doubt as to whether the fist blows attributed to the applicant were the sole and direct cause of death. This aspect will require evidence at the stage of trial.

6. It is also pertinent to note that the co-accused, who are alleged to have participated in the assault along with the applicant, have already been released on bail by the Coordinate Bench of this Court. The principle of parity, therefore, comes into play, and unless distinguishing circumstances are brought on record, the applicant cannot be treated differently.

7. The fact that the applicant has criminal antecedents is no doubt a matter of concern. However, it is equally well-settled that the existence of past antecedents by itself cannot be the sole ground for denying bail, if the facts of the present case justify release. Appropriate conditions can be imposed to ensure that the applicant does not misuse the liberty granted to him.

8. Considering the totality of circumstances, the nature of allegations, absence of use of weapons, the medical cause of death, and the grant of bail to the co-accused, I am of the opinion that the applicant has made out a case for grant of bail.

9. Hence, the following order is passed:

- i) The bail application is allowed;
- ii) The applicant Kartik Annadurai Devendra is directed to be released on regular bail in connection with Crime No.318 of 2024 registered at RCF Police Station, Mumbai for offences

punishable under Sections 302, 452, 141, 143, 147, 149, 323, 504, 506(2), 120B, and 34 of the Indian Penal Code, upon furnishing a personal bond of Rs.25,000/- (Rupees Twenty Five Thousand Only) with 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 report the Investigating Officer of RCF Police Station initially for the first two months on the third Saturday of the month between 11:00 a.m. to 12:00 p.m. and thereafter as and when called;
- b) The 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;
- c) The applicant shall not leave the State of Maharashtra without prior permission of the Trial Court. They shall deposit their passports, if any, within two weeks after being released on bail with the Trial Court;
- d) The applicant shall not influence with any of the witnesses or tamper with the evidence in any manner;
- e) The applicant shall keep the Investigating Officer informed of their current address and mobile contact number and/or change of residence or mobile details, if any, from time to time;

f) Any infraction of the above conditions shall entail cancellation of this order.

g) The applicant shall not enter the jurisdiction of RCF Police Station, except for the limited purpose of marking his presence as directed by the Investigating Officer or the Court.

10. However, it shall be open to the prosecution to institute independent proceedings in the event of any breach of the conditions imposed.

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

(AMIT BORKAR, J.)