

VRJ

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

BAIL APPLICATION NO.3062 OF 2025

Taukir Husain Momin

... Applicant

V/s.

The State of Maharashtra

... Respondent

VAIBHAV
RAMESH
JADHAV

Digitally signed by
VAIBHAV RAMESH
JADHAV
Date: 2025.08.05
17:25:20 +0530

Mr. Aniket Vagal with Ms. Juhi Kadu and Mr. Kunal Pednekar for the applicant.

Ms. Supriya I. Kak, APP for the State.

Mr. Shivaji T. Patil, PSI, Nizampura Police Station is present.

CORAM : AMIT BORKAR, J.

DATED : AUGUST 5, 2025

P.C.:

1. The present application is filed by the applicant under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023, seeking regular bail in connection with Crime No.950 of 2024 registered with Nizampura Police Station. The said crime is registered for offences punishable under Sections 326(G) and 109 of the Bharatiya Nyaya Sanhita, 2023.

2. As per the case of the prosecution, on 27th December 2024, at around 2:30 p.m., the informant and her husband went to sleep inside their house. After about 15 minutes, hot steam and smoke entered the room, causing the informant to wake up and alert her husband. Upon checking, they noticed that their house had caught

fire. They tried to exit the room but found that the door was locked from outside with a chain. Due to the flames near the entrance, the informant suffered burn injuries on her hands. Her husband lost consciousness because of the smoke. The informant screamed for help, and at that moment, their neighbour, Aarif Qureshi, came and opened the door from outside. After that, the informant sat down on the bed, and her husband regained consciousness. The informant was then taken to IGM Hospital, Bhiwandi by her husband and brother Sai. Thereafter, based on her complaint, the FIR was lodged against the present applicant.

3. The learned advocate for the applicant submitted that the allegations against the applicant are that he allegedly set fire to the informant's house while she and her husband were sleeping. It is argued that the fire was not set with any intention to cause death or serious harm. The learned advocate further contended that there is no specific or personal motive attributed to the applicant for committing such an offence. It was pointed out that though the applicant's presence is seen in the CCTV footage near the spot, there is no footage showing him actually setting the fire. The applicant is a local resident of the same area and has no previous criminal record. The learned advocate further submitted that the applicant was arrested on 28th December 2024, and the case is still at a preliminary stage, with charges yet to be framed. On these grounds, he prayed that the applicant be released on bail.

4. On the other hand, the learned APP for the State strongly opposed the bail application. She submitted that the applicant's presence near the scene of the crime is clearly captured in the

CCTV footage during the relevant time. There was no justifiable reason for the applicant to be moving around the informant's house late at night. A witness has also stated that the applicant was seen near the house carrying a black bag that allegedly contained a box around 2:40 a.m. This, according to the prosecution, strongly points to the applicant's involvement in the offence. On the strength of this material, the learned APP submitted that the applicant's custodial presence is necessary and prayed for rejection of the bail application.

5. I have carefully considered the submissions made by the learned advocate for the applicant and the learned APP for the State. I have also gone through the material placed on record, including the FIR, medical report of the informant, and the statement of witnesses.

6. It is to be noted that the allegation against the applicant is of causing grievous hurt by use of fire, punishable under Section 326(G) read with Section 109 of the Bharatiya Nyaya Sanhita, 2023. However, there is no direct evidence available at this stage to conclusively show that the applicant is the person who ignited the fire. Though CCTV footage shows his presence near the house, it does not capture the act of setting fire. The prosecution is relying on circumstantial evidence and the statement of a witness who allegedly saw the applicant with a black bag.

7. At this stage, there appears no material to suggest that the applicant had any personal enmity or motive to harm the informant or her husband. The investigation has been completed

and the applicant is in custody since 28th December 2024, i.e., for more than seven months. The charge-sheet is already filed and trial is yet to commence. No prior criminal antecedents of the applicant are brought on record.

8. It is settled law that bail is the rule and jail is the exception, particularly when the investigation is complete, and the applicant is not likely to tamper with evidence or influence witnesses. Merely on the basis of suspicion or proximity to the scene, an accused cannot be indefinitely kept in custody.

9. Having regard to the totality of circumstances, the nature of evidence, the stage of trial, and period of incarceration already undergone, this Court is of the opinion that the applicant deserves to be released on bail, subject to conditions to ensure his presence at trial.

10. Hence, the following order is passed.

- i) The bail application is allowed;
- ii) The applicant Taukir Husain Momin is directed to be released on regular bail in connection with Crime No.950 of 2024 registered with Nizampura Police Station for offences punishable under Sections 326(G), 109 of the Bharatiya Nyaya Sanhita, 2023, upon furnishing a personal bond of Rs.15000/- (Rupees Fifteen 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 Nizampura Police Station

on first Monday of every third month between 10.00 a.m. to 12.00 noon, until further orders.

b) The applicant shall not tamper with the evidence or attempt to influence any witness.

c) The applicant shall appear before the Trial Court on every date of hearing unless prevented by sufficient cause.

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

e) The applicant shall not indulge in any criminal activity during the pendency of the trial.

f) Any breach of these conditions shall result in the prosecution moving for cancellation of bail before the Trial Court.

11. The bail application is allowed and disposed of.

(AMIT BORKAR, J.)