

Shabnoor

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

BAIL APPLICATION NO. 3346 OF 2025

Umam Salim Jamadar

... Applicant

V/s.

State of Maharashtra

... Respondent

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Ms. Afreen Bana, BT Shaikh a/w Ms. Nikhat Shaikh,
for the applicant.

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

Mr. Khule, IO, RAK Marg Police Station is present.

CORAM : AMIT BORKAR, J.

DATED : AUGUST 25, 2025

P.C.:

1. The present application is filed by the applicant under Section 482 of the *Bharatiya Nagarik Suraksha Sanhita, 2023*, seeking his release on bail in connection with Crime Register No. 260 of 2025 registered at R.A.K. Marg Police Station. The allegations against the applicant are that he has committed offences punishable under Sections 115(2), 118(2), 351(2), 352, 189(1), 189(2), and 189(4) of the *Bharatiya Nyaya Sanhita, 2023* (“BNS”).

2. As per the prosecution case, the incident in question took place on 17th July 2025 at around 10:45 p.m. The complainant was on his way to a nearby bakery at Sewree Cross Road when he

noticed that co-accused Umam Jamadar and Farhan Qureshi were hurling abuses at his son, Bashid Shaikh. The complainant intervened and informed Salim Jamadar, the father of co-accused Umam, about this incident. Thereafter, it is alleged that Aslam Jamadar, the brother of Salim, came near the complainant and pushed him. The allegations further state that co-accused Umam attempted to punch the complainant with a glove; though the blow did not land fully as intended, the complainant sustained an injury on his left cheek. It is further alleged that Akib Jamadar struck the complainant on his head with an iron rod, while Shifan Jamadar and some unidentified persons assaulted him with their hands. The complainant thereafter approached the police station and was taken to KEM Hospital, where the medical officer informed him that he had sustained a fracture on his face. On these allegations, the First Information Report (FIR) came to be registered.

3. Learned Advocate for the applicant has drawn attention to the order passed by the learned Sessions Judge in *Criminal Bail Application No. 2156 of 2025*, whereby one of the co-accused, who is alleged to have played a role similar to that of the present applicant, has already been granted bail. However, the bail application of the present applicant came to be rejected by the Sessions Court. Learned counsel further submits that the medical report does not attribute any injury specifically distinguishable to the applicant when compared with the role assigned to the co-accused who has already been released. It is, therefore, urged that the present applicant is entitled to the benefit of parity, and on that ground, the applicant deserves to be released on bail.

4. On the other hand, the learned Additional Public Prosecutor (APP) has opposed the application. It is submitted that the role of the present applicant is not identical to that of the co-accused who has been enlarged on bail. According to the prosecution, the present applicant has a more direct role in the commission of the offence. The learned APP further points out that the applicant has criminal antecedents, as two prior offences have been registered against him. Considering the seriousness of the present offence, coupled with the past conduct of the applicant, it is submitted that the applicant does not deserve the discretionary relief of bail.

5. I have given my thoughtful consideration to the rival submissions. The record shows that the complainant has attributed allegations of assault to several accused persons, including the present applicant. However, it is equally clear that one of the co-accused, who is said to have played a similar role in the assault, has already been granted bail by the Sessions Court. The principle of parity, which is well recognised in bail jurisprudence, requires that similarly placed accused are not treated differently without sufficient justification.

6. The injuries suffered by the complainant are indeed of a serious nature, but it is not possible at this stage to segregate with precision which of the assailants caused the particular fracture. The medical report does not specifically attribute the fracture injury to the applicant. Therefore, when the co-accused assigned with a similar role has been released on bail, the denial of bail to the applicant would amount to unequal treatment.

7. As regards the contention of the prosecution regarding antecedents, it is well settled that past cases alone cannot be a ground to deny bail, unless they disclose a clear possibility of the applicant misusing his liberty or indulging in similar offences. Bail is a rule and jail is an exception, subject, of course, to reasonable restrictions. The apprehension of the prosecution can be addressed by imposing stringent conditions.

8. In view of the above discussion, the following order is passed:

(i) The Bail Application is allowed.

(ii) The applicant, Umam Salim Jamadar shall be released on bail in connection with Crime Register No. 260 of 2025 registered with RAK Marg Police Station for offences punishable under Sections 115(2), 118(2), 351(2), 352, 189(1), 189(2), 189(4) BNS, upon furnishing a Personal Bond of ₹25,000/- (Rupees Twenty-Five 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.

(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 RAK Marg Police Station on the first Monday of every month between 11.00 a.m. and 1.00 p.m. and as and when called by the Investigating Officer on written notice, 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.

(g) In case, breach of any condition would entail cancellation of bail.

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

(AMIT BORKAR, J.)