

Ashish

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

BAIL APPLICATION NO. 3440 OF 2025

Kalam Shamshuddin Khan	... Applicant
V/s.	
The State of Maharashtra	... Respondent

Mr. Vikas Kolekar, a/w Ms. Monika Dushmikar for the applicant.

Mr. Sagar R. Agarkar, APP for respondent – State.

Mr. S.S. Shinde, PSI, Taloja Police Station.

CORAM : AMIT BORKAR, J.

DATED : SEPTEMBER 23, 2025

P.C.:

1. By this bail application filed under Section 439 of the Code of Criminal Procedure, 1973, the applicant seeks regular bail in connection with Sessions Case No. 364 of 2019 arising out of Crime Register No. 219 of 2017 registered at Taloja Police Station for offences punishable under Sections 302 and 397 of the Indian Penal Code.

2. The brief facts of the prosecution case are that one Abdul Rajik Shaikh lodged the FIR. He stated that he resides with his elder brother Nijam, his wife, three children, and his sister Shahajahan. Nijam was employed as a welder in a company, while

the complainant himself was working in Airoli. Both were supporting the family through their earnings. On 3rd December 2021, being a Sunday, both the complainant and his brother were at home. At about midnight, they went to sleep. Around 2.15 a.m., they heard the sound of the hall window being broken. The complainant and his brother woke up and saw an unknown person attempting to break the window. On raising alarm, the intruder ran away. However, Nijam continued shouting and stepped outside. They then noticed four unknown persons waiting at the main gate of the building. Nijam tried to catch hold of one of them. At this point, the other three assailants attacked him. One of them, wearing jeans and a red shirt, stabbed Nijam with a knife. All four appeared to be in the age group of 25 to 30 years. The complainant immediately took Nijam to MGM Hospital, Kamothe, in a private vehicle. There, Nijam was declared dead. Thereafter, the FIR was registered at Taloja Police Station against the unknown assailants.

3. Learned counsel for the applicant submits that the applicant was arrested on 27th February 2018. Though charges have been framed, not a single witness has been examined so far. The prosecution has cited 21 witnesses. In such circumstances, the trial is not likely to conclude in the near future. He, therefore, prays for release of the applicant on bail, emphasizing the applicant's right under Article 21 of the Constitution of India.

4. On the other hand, learned APP opposes the application. He submits that the allegations against the applicant are grave. The offences attract punishment of life imprisonment or even death.

Hence, according to him, the application does not deserve to be allowed.

5. I have considered the rival submissions and perused the record. The applicant has been in custody since 27th February 2018. The trial has not commenced though charges are framed. The prosecution has cited 21 witnesses. There is no likelihood of the trial being completed in the near future.

6. The right to speedy trial is a part of the right guaranteed under Article 21 of the Constitution of India. The applicant cannot be kept in custody for an indefinite period when the trial is not progressing.

7. The seriousness of the allegations and severity of punishment are relevant factors. However, they cannot be the sole grounds to deny bail when there is no progress in trial and the applicant has already undergone prolonged incarceration.

8. The applicant has no previous criminal antecedents placed on record. There is nothing to show that if released, he would abscond or tamper with the evidence. The apprehensions of the prosecution can be taken care of by imposing suitable conditions.

9. In view of the above circumstances, I am of the opinion that the applicant deserves to be released on bail.

10. Hence, following order is passed:

- (i) The applicant Kalam Shamshuddin Khan is directed to be released on regular bail in connection with C.R. No. 219

of 2017, registered with Taloja Police Station for offences punishable under sections 302, 397 of the IPC, upon furnishing a cash surety of Rs.25000/- (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 not tamper with evidence, or directly or indirectly contact, influence, threaten, or intimidate any witness.
- (b) The applicant shall report to the concerned Police Station, once in a month, specifically on the 1st day of each month, between 10:00 a.m. and 12:00 noon, until further orders.
- (c) The applicant shall appear before the Trial Court on every date of hearing unless exempted.
- (d) The applicant shall not leave 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 of any breach of the conditions mentioned above, the prosecution shall be at liberty to move for cancellation of bail.

11. The bail application is disposed of.

(AMIT BORKAR, J.)