

Ajit Pathrikar

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO. 4583 OF 2025**

Arbaz Mohd Parvez Shaikh ...Applicant
Versus
State Of Maharashtra ...Respondent

Mr. Gaurav Bhawnani *a/w Zeeshan Khan, for the Applicant.*
Mr. Yogesh Dabke, *APP for the State-Respondent.*

CORAM DR. NEELA GOKHALE, J.
DATED: 9th DECEMBER 2025

PC:-

1. The Applicant seeks his release on bail in connection with C.R. No. 220 of 2025 dated 19th April 2025 registered with the Mankhurd Police Station, Mumbai for the offences punishable under Sections 118(2), 118(1), 352, 115(2) read with 3(5) of the Bharatiya Nyaya Sanhita, 2023 (“BNS”).

2. The facts of the case, in brief, are that on 18th April 2025, there was a quarrel between the family members of the deceased and the Applicant. The issue on the basis of which the quarrel took place was that the deceased’s daughter, aged

15 years, used to talk to one of the boys in the Applicant's family. The family of the deceased went to the house of the Applicant's family to resolve the matter and to convey to the Applicant's family members that their son should not meet the deceased's daughter. There was some dispute between the family members, which led to an altercation. The family members of the Applicant registered an NC complaint with the police station concerned. Similarly, the family members of the deceased were called to the police station for inquiry. They also registered an NC complaint against the Applicant and his family. It is the allegation of the First Informant that while returning from the police station, the Applicant and his family members were lying in wait on the road, carrying certain weapons such as iron rod, wooden stick, etc. There was an altercation on the road. It is the prosecution's case that the deceased and his family members were beaten up with a wooden plank and an iron rod. The Applicant is alleged to have assaulted the deceased with a knife on his back. Thus, the present FIR was registered and the Applicant was arrested.

The deceased at that point of time was hospitalized and was being treated for his injuries. He gave a statement dated 27th April 2025, narrating the incident to the police. Two months later, the deceased succumbed to his injuries.

3. The Applicant filed a bail application before the Sessions Court, Greater Mumbai. However, by order dated 15th November 2025, the said application was rejected and hence, the Applicant is before this Court for the relief as prayed.

4. Mr. Gaurav Bhawnani, learned Counsel for the Applicant, submits that this is a case of cross FIRs between the two families. The deceased was initially hospitalized for treating the injuries caused by the Applicant on his back. However, when he passed away, after approximately two months, the cause of death in the postmortem report is shown as *“pulmonary consolidation following multiple injuries in an alleged case of assault”*. It is thus, Mr. Bhawnani’s argument that the Applicant has not died of the injuries purported to have been inflicted upon him by the Applicant. He submits

that even originally, the FIR initiated against the Applicant was not under Section 109 of the BNS, but was only for the offence of grievous hurt. He thus submits that, the cause of death of the deceased is not on account of the purported assault by the Applicant, but because of an unrelated illness. He further submits that there are no antecedents against the Applicant. There was also no premeditation to commit the offence as alleged. Hence, he prays that the Applicant be enlarged on bail.

5. Mr. Yogesh Dabke, learned APP, on the other hand, has placed before me the statement of the sister of the deceased recorded under Section 183 of the BNSS, 2023. He submits that the statement recorded before the Magistrate clearly demonstrates premeditation of the Applicant and his family members to attack the deceased and his family members. He submits that the offence is serious and that the deceased has lost his life. He also submits that it is not a case of long

incarceration, as the Applicant was arrested only on 19th April 2025. He thus prays that the Bail Application be rejected.

6. I have heard learned Counsel appearing for the respective parties and perused the record with their assistance.

7. What primarily disturbs me is that in the statement of the deceased himself, who was injured at that point of time i.e. on 27th April 2025, nowhere made the allegations against the Applicant and his family member, which now , after his death, his sister makes in her statement recorded under Section 183 of the BNSS before the Magistrate. The complete complexion of the incident changed after the death of the deceased. More particularly, when the deceased (at that time injured) gave his statement, the FIR was registered only for an offence of grievous hurt and Section 109 of the BNS was not even invoked. The other Accused have been granted bail by the Sessions Court during the investigation itself. An attempt was made to seek cancellation of the said bail orders.

However, the said applications were rejected. The statement of the sister now recorded under Section 183 of the BNSS, *prima facie*, appears to be an improvement in the story, made with an intention to continue to keep the Applicant and the other Accused in custody.

8. Admittedly, the deceased passed away after two months of hospitalization and the cause of death is related to pulmonary consolidation and not on account of injuries to his back caused by the Applicant. There is some degree of doubt pertaining to the story of the family of the deceased. Although the offences are serious, the chargesheet is filed and no purpose would be served by continuing to keep the Applicant in custody, especially in the facts and circumstances of the present case. Hence, I am inclined to enlarge the Applicant on bail. However, since the trial has not yet commenced and it is quite probable that the Applicant may try to intimidate the witnesses or tamper with the evidence, who all reside in the

same locality, stringent conditions are imposed as condition of bail and it is ordered as under:

ORDER

- i) The Applicant be enlarged on bail, on executing PR Bond in the sum of Rs.50,000/ with one or two local sureties in the like amount;
- ii) The Applicant shall attend the Trial Court concerned on each and every date as directed, till the conclusion of the trial, save and except if the Applicant is exempted from appearance by orders of the Trial Court.
- iii) The Applicant will not enter the jurisdiction of the DCP Zone-VI, which includes the area covering Mankhurd, Shivaji Nagar, Govandi and Trombay Police Station.
- iv) If the Applicant has not deposited his passport, the Applicant shall deposit the same with the concerned Police Station, if any;

v) The Applicant shall not leave India, without permission of the Trial Court;

vi) The Applicant shall not tamper or attempt to influence or contact the complainant, witnesses or any person concerned with the case;

vii) The Applicant shall inform his latest place of residence and mobile contact number immediately after being released and / or change of residence or mobile details, if any, from time to time to the Court seized of the matter and to the Investigating Officer of the concerned Police Station;

viii) The Applicant to co-operate with the conduct of the trial;

ix) Any infraction of the aforesaid conditions shall entail cancellation of bail.

9. Application is allowed in the above terms and is accordingly disposed of.

10. It is made clear that the observations made herein are *prima facie* and are confined to this Application and the Trial Judge to decide the case on its own merits, uninfluenced by the observations made herein.

(Dr. Neela Gokhale, J)