

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY*****CRIMINAL APPELLATE JURISDICTION*****ANTICIPATORY BAIL APPLICATION NO. 641 OF 2025****Yusuf Yunus Shaikh****..... Applicant****VERSUS****State of Maharashtra****..... Respondent**

Mr. Rohan Chauhan a/w. Mr. Kushal Mor for the Applicant.

Mr. Anand S. Shalgaonkar, A.P.P. for the State.

S. P. Salekar, G.P.S.I., Shantinagar Police Station present.

CORAM : RAJESH S. PATIL, J.**DATE : 6th MARCH, 2025****P.C. :-**

This application is filed for pre-arrest bail under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023 in connection with FIR No. 0950 dated 3rd April, 2024 registered with Shantinagar Police Station, Thane City for the offences punishable under Sections 25 and 4 of the Arms Act, 1959, Sections 109, 120-B, 143, 147, 148, 149, 302 and 307 of the Indian Penal Code, 1860 and Sections 135 and 37(1) of the Maharashtra Police Act, 1951.

2. The FIR NO. 950 has been registered against nine accused persons. Subsequently, at the time of filing of the charge-sheet, the name of the present applicant has been mentioned. It has been mentioned in the FIR that Zubair Shaikh, Ishtiyak, Mushtaq, Aftab

were beat by sword, knife, iron rod and wooden rod. It has been further alleged that Zubair Shaikh died. In the supplementary statement, the name of the present applicant is mentioned stating therein that in the conspiracy regarding the offence, the present applicant was involved. As regards the accused Annu @ Mohammed Hanif Yunus Shaikh is concerned, bail was granted by this Court by its order dated 7th February, 2025. The learned A.P.P. submits that there is reference to the name of the present applicant as a person who was part of the conspiracy. Similar statement has been made by the other witnesses.

3. Mr. Chauhan, learned counsel appearing for the applicant submits that in the FIR and in the first supplementary statement, the name of the present applicant and also the applicant to whom the bail was granted by this Court in Criminal Bail Application No. 485 of 2025 has been mentioned. In the supplementary statement, it has been stated that one of the deceased Zubair was having a partnership in the matka (gambling) business with the applicant and his brother Annu @ Mohammed Hanif Yunus Shaikh since long since they were friends and known to each other. Due to demise of the one of the family member of the victim Zubair, the applicant and brother Annu

reduced the share of proceeds which was given to Zubair from the said matka business. This was in view of the fact that Zubair's relative Tufel was in fact looking after the matka business on behalf of the Zubair alongwith the applicant and his brother Annu. Over a period of time, the applicant and his brother stopped giving any share from the proceeds of the matka business to Zubair.

4. In the supplementary statement, there is an incident referred to the last year by the first informant wherein it has been stated that on 20th November, 2023 at about 4:30 p.m., one of the member of Zubair's family was teased by some of the accused persons and therefore the complaint was lodged.

5. The applicant has been implicated in the charge-sheet on the basis of the second supplementary statement. It has been submitted that the applicant has been supporting the accused persons relating to the incident and relating to lodging of the complaint.

6. The learned A.P.P. submitted that as far as the present applicant is concerned, his name appears from the second statement. The motive of the crime can be seen from the fact that the applicant and his brother stopped paying the share of the deceased victim Zubair. The learned A.P.P. further submitted that conspiracy was hatched

against the deceased victim. The statement states that during Ramzan, when some of the accused persons and the applicant met in the evening to end their fast, a discussion took place with respect to killing somebody. However, the name has not been mentioned specifically. As regards the present applicant is concerned, it is nobody's case that there are antecedents.

7. Considering the material on record presented before the Court and as argued by the advocate for the applicant, the motive of the crime to link the role of the applicant is *prima facie* not evidence. Applicant's name is not arraigned as an accused in the FIR. In the supplementary statement, the name of the present applicant is mentioned stating therein that in the conspiracy regarding the offence, the present applicant was involved. The brother of the applicant by name Annu whose role is similarly attributed as that of the present applicant, has been granted bail by the co-ordinate Bench (Coram : Milind N. Jadhav, J.) on 7th February, 2025. In view of that, according to me, the applicant is entitled to be released on pre-arrest bail on the following terms and conditions :-

(a) The applicant is directed to be released on bail on furnishing P.R. Bond in the sum of Rs. 30,000/- with one or two sureties in the like amount;

(b) The Applicant shall report to the Investigating Officer of concerned Police Station once every month on the third Saturday between 10:00 am to 12:00 pm for the first six months and thereafter as and when called;

(c) 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;

(d) The Applicant shall not leave the State of Maharashtra without prior permission of the Trial Court;

(e) The Applicant shall not influence with any of the witnesses or tamper with the evidence in any manner;

(f) The Applicant shall keep the Investigating Officer informed of his current address and mobile contact number and / or change of residence or mobile details, if any, from time to time;

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

8. It is clarified that the observations in this order are limited only for the purpose of granting anticipatory bail and I have not made any observations on merits of the case.

9. In view of the above directions, the anticipatory bail application stands allowed and disposed of accordingly.

[RAJESH S. PATIL, J.]