

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

**INTERIM APPLICATION NO.2347 OF 2025
IN
CRIMINAL APPEAL NO.617 OF 2025**

Ajmul Salimuddin Salmani @ Sanjay Applicant

versus

The State of Maharashtra Respondent

.....

- Ms. NSK Ayubi, Advocate for Applicant.
- Ms. Sharmila S. Kaushik, APP for the State/Respondent.

**CORAM : SARANG V. KOTWAL &
ADVAIT M. SETHNA, JJ.
DATE : 02nd SEPTEMBER, 2025**

P.C. :

1. This is an application for bail pending final disposal of the Appeal preferred by the Applicant. The Applicant was the sole accused. He was convicted and sentenced by the learned Additional Sessions Judge, Greater Mumbai, vide his Judgment and Order dated 21/10/2024 passed in Sessions Case No.353/2022 u/s 302 of the Indian Penal Code.

Digitally
signed by
MANUSHREE
NESARIKAR
Date:
2025.09.04
12:55:14
+0530

2. The Applicant was convicted for commission of the

offence punishable u/s 302 of the Indian Penal Code and was sentenced to suffer rigorous imprisonment for life and to pay a fine of Rs.3,000/- and in default of payment of fine to suffer simple imprisonment for three months.

3. Heard Ms. NSK Ayubi, learned counsel for the Applicant and Ms. Sharmila S. Kaushik, learned APP for the State.
4. The incident is dated 17/12/2021. The prosecution case is that the Applicant was having grudge against one Shabbir because of some previous quarrel. He had threatened Shabbir that he would cause harm to Shabbir or his employees. In the early hours of 17/12/2021, he gave blow with a big stone on the head of one Afzal causing serious head injury. Afzal's uncle was sleeping next to him and he woke up and saw the Applicant running away from the spot. He informed others. The injured Afzal was taken to hospital, but he succumbed to his injuries on 22/12/2021. The medical certificate issued by J.J. Group of Hospitals shows that that the deceased Afzal had suffered 8 injuries. There was lacerated wound on the side of the face. It was described as grievous injury and there were incised wounds

on the forehead. There was injury on the side of left lower lip. It was also described as grievous injury. Besides that, there were other simple injuries. The post-mortem notes show certain other surgical wounds as well. The cause of death is 'Death due to head injury(Unnatural)'.

5. Learned counsel for the Applicant submitted that the prosecution case has not established the motive. There is no eyewitness to the incident. The uncle of the deceased who was sleeping next to him had not actually seen the incident. The CCTV footage was inconclusive.
6. Learned APP on the other hand relied on the evidence of uncle of the deceased and also on the evidence of CCTV footage.
7. We have considered these submissions. We have perused the evidence annexed to this application with the help of both the learned counsel.
8. P.W.3 Shabir Khan was the employer of the deceased

Afzal. There was some history between him and the Applicant. On 16/12/2021, the Applicant had threatened this witness. He had abused his colleagues as well. Therefore, P.W.3 Shabir's wife had informed the police. The police had taken the Applicant to the police station. Because of which, he had got angry. This evidence provides motive for the murder. It indicates the past threats issued by him.

9. The eyewitness P.W.7 Subrathi Fatte Mohd. Shah, was uncle of the deceased who was sleeping with the deceased Afzal and one Babu on the footpath. In the night at about 03.30 a.m. to 4.00 a.m., he woke up. According to him the Applicant had assaulted the deceased with the stone on his head. He saw the Applicant running away from the spot. P.W.7 then informed others and Afzal was taken to the hospital. This is another strong incriminating evidence against the Applicant. The third main evidence against him is that of the CCTV footage. The CCTV camera was installed in a shop opposite to the spot of incident.

10. P.W.6 Arif Mohd. Yusuf Shaikh had installed that CCTV system. He provided certificate u/s 65 B of the Indian Evidence Act to prove that CCTV footage.
11. P.W.5 Fahad Aslam Khan was the shop owner. He was shown the CCTV footage. He described the CCTV footage. He described that the CCTV footage showed the Applicant throwing stone on the deceased Afzal. The CCTV footage also showed the Applicant wandering here and there and picking up a stone. P.W.5 identified the Applicant as the accused in that case.
12. Thus, there is strong evidence against the Applicant in the form of eyewitness and CCTV footage.
13. Considering this evidence, no case for grant of bail is made out.
14. The application is accordingly disposed of.

(ADVAIT M. SETHNA, J.)

(SARANG V. KOTWAL, J.)