



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO. 646 OF 2026

IQBAL AHMED SHAikh ALIAS JAMADAR
VERSUS
THE STATE OF MAHARASHTRA

WITH
CRIMINAL APPLICATION NO.1668 OF 2026
IN BA/646/2026

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Advocate for Applicant : Mr. Syed Azizoddin R.
APP for Respondent/s-State : Mr. N. R. Dayma.
Advocate for Applicant to Assist APP : Mr. Sohail Subhedar
Shaikh.

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CORAM : SHAILESH P. BRAHME, J.
DATE : 28.04.2026

FINAL ORDER :-

1. Heard both sides.
2. The applicant is seeking enlargement on bail in respect of offence bearing Crime No.396 of 2025, registered with Bidkin Police Station, District Chh. Sambhajinagar (Rural), for the offences punishable under Sections 140(3), 103(1), 61 of Bharatiya Nyaya Sanhita and Sections 3/25, 4/25 and 7/25 of Arms Act.
3. The applicant is arrested on 02.07.2025. Charge-sheet is filed on 26.09.2025.

4. It is reported by Sahil son of the deceased Akbar Shaikh that there was rivalry in between his family and accused No.1 Wahed Yakub Shaikh, accused No.2 Latif Yakub Shaikh and Ayyub Yakub Shaikh. Previously offence was registered against the father and uncles of the informant. There used to quarrels on that count between two families. It is further alleged that on 01.01.2025 deceased father and his brothers were acquitted by the Sessions Court which flared up the rivalry. Accused No.4 Fazal @ Shahrukh is alleged to have gone closer to the deceased father. On 30.06.2025, deceased father is stated to have left the home for showing the land to accused No.4 Shahrukh and other two persons. He was found to be unreachable. On conducting inquiry and search, his vehicle was found to be stranded near Georai Tanda. His dead body was discovered having multiple injuries on the face.

5. Learned counsel for the applicant submits that applicant is accused No.6 and there is no incriminating role attributed to him in the entire investigation. He was neither concerned with accused Nos.1 to 4 nor with the family of the informant and the deceased. His name has not been spelt out in First Information Report. No material is collected to show that he was associated with accused No.4 Shahrukh, who was alleged

to have been engaged by accused Nos.1 to 3 to eliminate deceased Akbar. The last seen theory also does not implicate the applicant because the statement of Sohail would indicate that the deceased was last seen in the company of accused No.4 and accused No.5 Sonaji.

6. The memorandum under Section 23 of the Bharatiya Sakshya Adhiniyam is relevant as the spot where Akbar was shot dead was identified and shown by accused No.5 Sonaji. The CDR collected during the course of investigation is not per se inculpatory. Applicant is falsely implicated in the offence being relative of accused No.4. There is sufficient material to indicate that Akbar was shot dead by fire arm by accused No.4 Shahrukh. The ground of parity is also pressed into service by relying upon a common order passed by this Court in case of Latif, Mobin and Juber on 12.01.2026. No antecedents are reported against the applicant.

7. Per contra, learned APP would submit that the memorandum panchanma prepared at the instance of accused No.4 and distinct memorandum prepared at the instance of Sonaji shows that applicant was also involved along with other co-accused. Applicant has been identified in test identification parade by the informant. The statement of Dnyaneshwar and

Moiz would show that the deceased was seen last in the company of the applicant and co-accused. It is vehemently contended that CDR collected during investigation would indicate the presence of the applicant near the spot at the relevant time. Considering the injuries shown in the post mortem report, applicant has also played important role in commission of the offence.

8. It is contended by learned counsel for the informant that inspection panchnama and seizure panchnama of the handset seized from accused No.1 Wahed and the chatting recovered from it would indicate that accused No.4 Shahrukh was engaged to commit murder. The fire arm is seized from accused No.1. Applicant is in constant touch with the co-accused.

9. I have gone through the First Information Report which does not spell out name and the role of the applicant. The deceased father of the informant is alleged to have left home with accused No.4 Shahrukh and two unidentified persons in Scorpio Car. The CDR report would indicate communication amongst applicant, accused No.1 and accused No.4. The report lodged by son of the deceased specifically refers to previous rivalry between family of the informant and accused Nos.1, 2

and others. There is no reason to infer that present applicant was either connected or member of the rival groups.

10. The papers of the investigation would indicate that deceased Akbar and his brothers had faced prosecution for murder of Rauf Yakub. They were acquitted on 01.01.2025. There was constant rivalry between two families. Even after acquittal, they were threatened by present accused No.1 and the family members. The motive which is spelt out cannot be attributed to the applicant. It is alleged that accused Nos.1 and 3 had engaged accused No.4 Shahrukh to eliminate Akbar.

11. My attention is adverted to statement of Sohail who is stated that on 30.06.2025 at about 12.15 to 12.30 accused No.4 Shahrukh had arrived at their place with two persons to collect deceased Akbar. One of the persons alighted from car and went away. Accused No.4 with Akbar and remaining unidentified persons proceeded towards Sambhajinagar. The last seen theory which is tried to be made out from the independent witnesses Dnyaneshwar and Moiz to implicate present applicant also appears to be inconsistent and doubtful. These two witnesses claim to have seen the deceased in the company of applicant and others at 10.30. But the statement of Sohail as referred above would disclose departure of the

deceased with two persons only and the third one was having been alighted.

12. The memorandum panchnama prepared at the instance of accused No.5 Sonaji is relevant. The narration pertaining to the commission of the offence is inadmissible in evidence. But he is the person who showed the spot of the incident meaning thereby he was the person who is referred as an unidentified person who accompanied accused No.4 and the deceased. There is substance in the submission of learned counsel Mr. Syed that the person who alighted before witness Sahil was the present applicant.

13. The CDR is indicative of the communication amongst applicant and other co-accused. Applicant's relationship with co-accused No.4 has come to the fore. The call records cannot be said to be inculpatory per se. There is no material to indicate that there was meeting of the mind amongst applicant and other co-accused to eliminate Akbar. The chatting retrieved from the handset of accused No.1 would indicate complicity of accused No.4 at the most. I find no material to show that there was involvement of the applicant and he was party to the conspiracy.

14. The memorandum panchnama drawn at the instance of accused No.4 disclosing pistol would be of no help to show complicity of the applicant. The rest of the narration regarding commission of the offence is inadmissible in evidence.

15. I have gone through the common order passed by this Court on 12.01.2026 enlarging Latif, Mobin and Juber on bail. It is observed by the Co-ordinate Bench that substantive allegations are against accused No.1 and the persons have been indiscriminately roped into the act. It is further observed that the probative value of the material collected during the course of investigation would be subjected to the trial. I also propose to adopt the same reasons to doubt the involvement of the applicant in the offence in question.

16. No criminal antecedents are shown against the applicant. The papers show that 47 witnesses are cited. The trial is likely to consume time. Further incarceration of the applicant is not required. I, therefore, pass the following order :

ORDER

- (i) Bail Application is allowed.

(ii) Applicant **IQBAL AHEMAD SHAIKH ALIAS JAMADAR** shall be released on bail in Crime No.396 of 2025, registered with Bidkin Police Station, District Chh. Sambhajinagar (Rural), for the offences punishable under Sections 140(3), 103(1), 61 of Bharatiya Nyaya Sanhita and Sections 3/25, 4/25 and 7/25 of Arms Act on furnishing P. R. bond of Rs.50,000/- (Rupees fifty thousands only) with one solvent surety of like amount on the following conditions :

- (a) The applicant shall not tamper with prosecution evidence and contact the prosecution witnesses.
- (b) The applicant shall furnish his mobile/cell number and address to the Investigating Officer.
- (c) The applicant shall stay away from entire Paithan Taluka till conclusion of the trial, save and except for attending the dates of trial.
- (d) The applicant shall surrender his Aadhar Card and PAN Card to the Investigating Officer, if any.
- (e) The applicant shall co-operate for expeditious disposal of the trial.

- (iii) Bail application is disposed of accordingly.
- (iv) Criminal application for assisting APP is disposed of accordingly.

(SHAILESH P. BRAHME, J.)

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