

CORAM: R. M. JOSHI, J.

DATED: 05th MARCH, 2026

PC:-

1. These are Applications filed under Section 483 of the Bhartiya Nagrik Suraksha Sanhita, 2023 (for short '**BNSS**') seeking regular bail in connection with (FIR No. 939 of 2023) CR No.950 of 2024 registered with Shanti Nagar Police Station, Bhiwandi for the offence punishable under section 109, 143, 147, 148,149, 302, 307 and 120(B)of Indian Penal Code (for short **IPC**) and Section 4 and 25 of the Arms Act, 1959 and under Sections 37 (1) and 135 of Maharashtra Police Act, 1951.

2. As per the case of the prosecution on 02.04.2024 at about 6:30 p.m. informant/injured witness, his brother Sonu and Asif were sleeping at their house, at that time he received phone call from his friend, who told him about the same person causing assault of his maternal uncle-Jubir. He therefore went to the spot at KGN Chowk, he found that Arif, Abid, Babulal, Arif son Fardeen, his uncle Sadik, Shakil, Samir, Ishtiyah, Noyeb, Shahbaz Shaikh and Asif Shaikh etc., were brutally assaulting his maternal uncle with a sword-like weapon, Knife, Wooden sticks. In the said incident two of the injured persons died and others sustain serious injuries. On completion of investigation chargesheet is filed.

3. Learned counsel appearing on behalf of applicants submits that there is delay in lodging F.I.R. and there is no specific role alleged against the present applicants in commission of the crime. It is his submission that CCTV footage does not show the presence of the applicants even at the spot. In any case according to him the allegations against them are identical to co-accused-Zeeshan Sadique Khan @ Shaikh, who is granted bail in Bail Application bearing No.2556 of 2025 by this Court by order dated 19th August, 2025. Perusal of the entire chargesheet it does not indicate any assault being caused by the applicant either on the deceased or any of the injured witnesses. He made reference to observation made by this Court in the above mentioned order stating that the allegation of exhortation is absent in the version of the witnesses against the present applicants. It is his submission that applicants have no criminal history and they are not likely to flee from justice.

4. Learned counsel for the APP and learned counsel for the Intervener opposed the application, it is their submission that there is sufficient evidence on record to indicate the involvement of the applicants in serious crime like murder. It is argued that the applicants were part of unlawful assembly and therefore are vicariously liable for the acts of others. It is submitted that on being released on bail applicants are likely to cause interference in the evidence of the prosecution and hence it is fit case for rejection of the applications.

5. *Prima-facie*, perusal of the record indicates that the role attributed to the present applicants, is identical to the co-accused - Zeeshan. Though it is stated in the F.I.R. generally about all accused persons, including applicants causing assault on the deceased and injured, the statement of injured witnesses and independent witness do not attribute any specific overt act against the applicants. Insofar as the allegation with regard to the instigating others to cause assault, the said act is not found in the said statement of eye-witnesses. The statements of witnesses about present applicants are general in nature and do not specify any overt act against them.

6. The applicants are in custody from 03.04.2024. The trial is not likely to conclude in near future, having regard to the fact that there are number of witnesses to be examined by the prosecution. Having regard to the nature of evidence on record and since their role is identical to the co-accused, who is granted bail by this Court and the said order of bail being confirmed by Hon'ble Supreme Court, this Court finds no hesitation to apply parity. Imposition of appropriate conditions would take care of apprehension of the prosecution and intervener with regard to their abscondence or interference in the evidence.

7. Hence, following order.

ORDER

i) The bail application is allowed.

- ii) The applicant is directed to be released on regular bail in connection with Crime No. 950 of 2024 registered with Shanti Nagar Police Staation for offences punishable under Sections 109, 120-B, 143, 147, 148, 149,302,307 of BNS, upon furnishing a personal bond of Rs. 50,000/- (Rupees Fifty Thousand Only) with one or more solvent sureties in the like amount, to the sanctification of the Trial Court, subject to the following conditions;
 - (a) The applicant shall not tamer with evidence, or directly or indirectly contact, influence, threaten, or intimidate any witness, particularly family members of the deceased.
 - (b) The applicant shall report to the Shanti Nagar Police Station once in a month, specifically on the 1st Monday of each month, between 10:00 a.m. and 12:00 noon, until further orders.
 - (c) The applicant shall not enter the territorial jurisdiction of the concerned Police Station until further orders, except for making evidence and attending trial.
 - (d) The applicant shall not commit any offence or engage in any criminal activity during the pendency of the trial.
 - (e) 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.

- (f) In case of any breach of the conditions mentioned above, the prosecution shall be at liberty to move for cancellation of bail.
- 7. The bail applications are allowed and disposed of.
- 8. In view of this order, the interim applications are also stands disposed of.

(R. M. JOSHI, J.)