

Navnath Waghmare (RA)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO. 3611 OF 2025

Mohammad Faizan Usman ...Applicant  
Supariwala

***Versus***

The State Of Maharashtra ...Respondent

WITH

INTERIM APPLICATION NO.3554 OF 2025

IN

IN CRIMINAL BAIL APPLICATION NO. 3611 OF 2025

Alhan Ehsan Qureshi ...Applicant

***Versus***

The State Of Maharashtra ...Respondent

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Mr. Vipul V. Dushing a/w Krishma Joshi i/b Sangram Jadav for the Applicant.

Ms. S.K. Gajare, APP for the Respondent-State.

Mr. M.A. Ansari for the Intervener

Sr. PZ. Dushyant Chavan, Nagpada Police Station, Mumbai.

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CORAM: R. M. JOSHI, J.

DATED: 01<sup>st</sup> APRIL, 2026

**PC:-**

1. Applicant seeks bail in connection with Crime No 92 of 2023 registered with Nagpada Police Station for the offences punishable under Sections 302, 307, 323, 363, 504, 506,

120-B, 141, 142, 143, 147, 148, 149 of Indian Penal Code and Section 4 and 25 of the Arms Act, along with Sections 37(1) and 135 of the Maharashtra Police Act.

2. In short, it is the case of the prosecution that on 18.01.2023 incident occurred in which there was assault caused by the co-accused on informant and others. After the said incident commenced, applicant said to have been joined them and assaulted the deceased with knife. There is allegation that the co-accused caught hold of the deceased and facilitated applicant to assault the deceased and kill him. During the investigation evidence was collected against accused and on conclusion thereof, chargesheet came to be filed against the applicant and co-accused.

3. Learned counsel for the applicant submits that the F.I.R. as well as the statement of witness-Nadeem indicates that some incident of the fight/scuffle/assault had already commenced before the applicant joined them. It is his submission that the allegation against the accused persons is that co-accused caught hold of the deceased and present

applicant assaulted him with knife. It is submitted that there is only a single blow of the knife is given which according to him rules out the intention of committing murder of the deceased. It his submission that co-accused who said to have facilitated the said assault by catching hold by the deceased, are already enlarged on bail. There are no antecedents against the applicant and that he is not likely to abscond.

4. In response to the apprehension raised by counsel for the informant, Learned counsel for the applicant on instructions makes statement that in case bail is granted the applicant will not enter the jurisdiction of the Nagpada Police Station till the conclusion of the trial.

5. Learned APP, opposed the application by drawing attention of the Court to the statement of witnesses which are consistent with regard to the occurrence of the incident. She further drew attention of the Court that there is recovery of the knife at the instance of the present applicant which is sufficient to connect him with the crime. She further submits

that the applicant not only caused assault on the deceased but also prevented others to help the deceased.

6. Learned counsel for the informant opposed the application by contending that here in this case the intention of the applicant to kill the deceased can be seen from the fact that he brought knife to the spot and caused assault on the deceased which turned out to be a fatal injury. In this regard he referred to Post-mortem notes/report in order to indicate the force with which the assault was caused and according to him this said force applied, clearly shows the intention of the applicant to kill the deceased.

7. He further drew attention to the fact that the applicant was granted bail on medical ground for a period of four weeks. However, he did not surrender after the said period. It is his submission that considering the said aspect, the possibility of applicant fleeing from justice is not ruled out in response to this submission. Learned counsel for the Applicant submits that application was filed for extension of medical bail, however, it was not decided for a period of a year. According

to him, after rejection of the application for extension of bail, applicant surrendered and since 03.06.2024, he is in jail. Learned Counsel for the informant took exception to this submission pointing out that the application for extension of bail was rejected on 03.08.2023 and that application was not pending for a year as claimed by the counsel for the applicant. Learned Counsel for the Respondent apprehends pressurizing of the witnesses and tampering with the evidence at the hand of the applicant, if released on bail.

8. There is no dispute about the fact that the co-accused, who alleged to have caught hold of the deceased and facilitated and applicant to stab him are already enlarged on bail. In so far as the present applicant is concerned, *prima-facie*, perusal of the record and statements of witnesses including statement of Nadeem shows that some incident of assault/scuffle/ fight had already begun before he joined them. In this backdrop the question arises before this Court as to whether the intention/ motive could be attributed against applicant of causing death of deceased as a single blow was

inflicted on the deceased, and there was nothing to prevent him to cause multiple assault.

9. It is pertinent to note that the as per the case of the prosecution the deceased was caught hold by more than 2-3 persons in order to facilitate the applicant to assault him with knife. In such circumstances this Court finds substance in the contention of counsel for the applicant that had there been intention to kill deceased and when no one was there to prevent further assault why single blow of knife was given on the deceased. No doubt, unfortunately, deceased has died in the said incident, but *prima-facie* perusal of the post-mortem notes/report indicates that the death has caused on account of the damage caused to the internal parts of the body. In this regard no further observations be made as the same would be the subject matter to be decided by the Trial Court. Suffice it to say that this court finds no reason to reject contention of the counsel for the applicant that intention to kill deceased might be absent in the instant case.

10. In so far as the apprehension of prosecution as well as informant with regard to the applicant fleeing from justice in view of not surrendering before the Trial Court is concerned, appropriate condition could be imposed against him in order to take care of the said apprehension of abscondance.

11. Applicant has no criminal history behind him. The co-accused who caught the deceased to allow assault by applicant are already enlarged on bail. Trial is not likely to commence and conclude in reasonable time.

12. Hence, the following order:

i). Application stands allowed.

ii) Applicant seeks bail in connection with Crime No 92 of 2023 registered with Nagpada Police Station furnishing PR Bond of Rs. 30,000/- with one or two sureties in the like amount to the satisfaction of the Trial Court.

iii) Applicant to attain all dates of hearing before the Trial Court, unless exempted by passing specific order.

iv) Applicant to provide his residential address to the Investigating Officer and communicate change if any, therein till the conclusion of the trial.

v) As undertaken not to enter the jurisdiction of Nagpada Police Station till conclusion of trial, applicant will not contact with witnesses directly or indirectly in any manner whatsoever.

vi) Pending applications stand disposed of.

**13.** Any breach of conditions mentioned above shall forthwith will result into cancellation of bail and that applicant will be taken in the custody.

**14.** The above observations are prima-facie in nature and would not bind parties or trial court during trial.

**(R. M. JOSHI, J.)**