

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO. 4410 OF 2025

Mohammed Aslam Abdul Aziz Ansari ...Applicant

Versus

State Of Maharashtra ...Respondent

Mr. Sanad Vijay Desai a/w Mr. R. S. Khatib i/by Mr. M. A. Ansari,
for the Applicant

Mrs. Sangeeta D. Shinde, APP, for the Respondent - State.

Mr. Anil Jadhav, P I., Mahim Police Station, Mumbai, is present.

CORAM: R. M. JOSHI, J.

DATED: 2nd APRIL, 2026

PC:-

1. Applicant seeks bail in connection with Crime No. 242 of 2025 registered with Mahim Police Station, Mumbai, for the offence punishable under Section 103(1) of the Bhartiya Nyaya Sanhita, 2023 (For short "BNS Act").

2. In short, it is a case of the prosecution that on 15th May, 2025 at about 1:30 a.m. informant Khwaja Mehboob Shaikh came home. He found his brother Hasan Shaikh in injured condition. He made enquiry with him with regard to the said injuries. Informant claims that Hasan told him about being beaten by Mohammed Aslam Ansari with bamboo. He took injured to the hospital. During the treatment injured died. On the basis of First Information Report, offence came to be

registered against the present Applicant. Investigation was conducted. After conclusion of investigation, chargesheet came to be filed.

3. Learned Counsel for the Applicant submits that there are material inconsistencies in the statement of the informant with regard to the information received by him from the injured about the assailant. He drew attention of the Court to the First Information Report wherein it is stated that present Applicant assaulted him with bamboo whereas before the Medical Officer where said informant made statement about the injured being assaulted by 3-4 unknown persons. He further pointed out to the medical record indicating that the deceased also before the Medical Officer made statement about he being assaulted by 3-4 unknown persons. It is his submission that in such circumstances doubt is created as to whether the assault is attributed to the Applicant or 3-4 unknown persons. He further drew attention of the Court to the statements of eye witnesses which according to him shows that no intention of committing murder of the Applicant could be seen from the said statements. It is his argument that admittedly there is C.C.T.V. footage available with the prosecution, however no transcript of the same has been prepared and the best evidence available does not indicate involvement of the Applicant. It is submitted that the Applicant has no criminal history and the trial is not likely to commence and get over in reasonable period of time. He therefore seeks bail.

4. Learned APP opposes the application submitting that *post mortem* notes indicate causing of as many as eighteen injuries on the person of the deceased so also the cause of death opined by the Medical Officer. It is submitted that the said *post mortem* notes get further support from the statement of the eye witness to the incident who had specifically stated about he having seen Applicant assaulting the deceased with bamboo stick. It is her submission that the intention to kill the deceased can be inferred from the fact that the Applicant while assaulting the deceased said that the deceased has tried to steal his motorcycle earlier and that he was waiting for this opportunity. It is submitted that there is further support to the said statement with the statement of Vyankappa who was accompanying the deceased. It is submitted that having regard to the serious nature of crime, Applicant is not entitle to be enlarged on bail.

5. At this stage, the Court is required to *prima facie* see as to whether there is evidence on record to show that the Applicant was intending to kill deceased and that the injuries caused to the deceased can be attributed to the Applicant. No doubt, causing of eighteen injuries, as rightly argued on behalf of the prosecution, would be sufficient to cause death of any person. However, at this stage, question arises as to whether they are attributable to the present Applicant. *Prima facie* perusal of the record indicates that informant was told by the injured about he being assaulted by the present Applicant. If it is so, there was no reason for the informant to give history to the Medical Officer

about the injured being assaulted by 3-4 unknown persons. Not only that the informant stated so before the Medical Officer, record apparently indicates the same history being given by the injured. In such circumstances, it was absolutely necessary for the investigating agency to find out whether deceased after he left the place of the alleged assault by the Applicant went directly to his home. At least, at this stage, Learned APP was not able to show any material on record indicating such investigation being carried out to indicate that deceased did not meet any other incident after he left spot. Now therefore, there is reason to accept the contention of the Counsel for the Applicant that all the injuries as reflected in the *post mortem* notes may not be attributable to the Applicant as the eye witnesses also do not claim causing of these number of injuries. This *prima facie* findings are inevitable in view of the fact that neither Vyankappa states about causing so many injuries to the deceased nor the eye witness speaks so.

6. Having regards to the aforestated facts, it would be difficult to attribute any motive of killing of the deceased by the Applicant. Moreover, *prima facie* there is substance in the contention of Counsel for the Applicant that the possibility of someone else having assaulted the deceased after he left the place of assault allegedly caused by the Applicant, is not ruled out.

7. Applicant has no criminal history. He is not likely to flee from the justice. Trial is not likely to get over in a reasonable period of time hence, following order.

ORDER

- i) Criminal Bail Application stands allowed in connection with Crime No. 242 of 2025 registered with Mahim Police Station, Mumbai, for the offence punishable under Section 103(1) of the Bhartiya Nyaya Sanhita, 2023.
- ii) Applicant be enlarged on bail, on furnishing P. R. Bond of Rs.30,000/- with one or two sureties in the like amount, to the satisfaction of the Trial Court.
- iii) Applicant not to contact informant or any prosecution witnesses, directly or indirectly and cause interference in the evidence of the prosecution.
- iv) Applicant to attend all dates of hearing before the Trial Court unless his presence is exempted by passing specific order.
- v) Any breach of the above condition shall result forthwith in cancellation of bail.

8. The application is allowed in aforesaid terms and is accordingly disposed of.

9. It is clarified that the above observations are made on *prima facie* consideration of the material on record and the same shall not bind the parties during the trial.

(R. M. JOSHI, J.)

VDMokal/-