

Navnath Waghmare (RA)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 591 OF 2026

Mohammed Hafiz Mohammed Shafi Khan ...Applicant
Versus
The State of Maharashtra ...Respondent

Mr. Shyam Kochrekar a/w Mohammed Ahmed, Mujeeb Pathan for
the Applicant.
Ms. S.D. Shinde, APP, for the Respondent-State.

CORAM: R. M. JOSHI, J.

DATED: 10th MARCH, 2026

PC:-

1. This application is filed for regular bail in CR No. 422 of 2024 registered RAK Marg Police Station, Thane, Mumbai for the offence under Section 103 (1) of the Bhartiya Nyaya Sanhita, 2023 (for short 'BNS').

2. Mr. Kharat- PSI, lodged First Information Report on 04.11.2024 in respect of an incident occurred between 10:00 p.m. to 11:00 pm. It is alleged that, in the said incident, deceased-Suraj Thapa was assaulted by the applicant- Mohammad Khan, and he died in the said assault. Upon completion of the investigation, a chargesheet was filed since, 04.11.2024 applicant is in jail.

Learned counsel for the applicant submits that even if the case of the prosecution is accepted as it is, no offence punishable under Section 103 (1) of BNS is made out against the applicant. He drew attention of the Court to statement of Dinesh, who had seen occurrence of the incident which according to him indicates that in fact the deceased caused assault on the head of applicant and while he was attempting to cause another blow in the witness took away Rod from his hand. It is his submission by referring to the post-mortem notes that an injury was caused to the deceased are mostly abrasions and contusion which are possible in a fight between two persons. It is his submission in the fact of the case it cannot be said that offence of murder is made out against the applicant. Applicant has no criminal history behind him.

3. Learned APP opposed the application by contending that apart from statement of Dinesh there is statement of one witness-Sonu, which indicates that the applicant had caused severe assault on the deceased and he was beaten with legs. It is submitted that though abrasions are seen on the person of the deceased. However, the fracture has also been caused to the deceased. Having regard to these facts according to her, this is not fit case to grant bail.

4. *Prima-facie*, perusal of the evidence in the chargesheet indicates that some incidents certainly occurred in which the fight took place between the applicant and deceased. As per the statement of witness Dinesh as well as Sonu, applicant was not holding any weapon nor caused any assault on the deceased with

any weapon. On the contrary, evidence statement of eye-witnesses indicate that the deceased had assaulted the applicant with iron rod on his head. He was prevented from causing further assault on applicant by the witness. The injuries, which are mostly abrasions and contusions, indicates that they are possible to cause in a fight between applicant and deceased. *Prima-facie*, this Court finds material on record which show offence of murder may not be attributed against applicant. The Applicant has no criminal history behind him and is not likely to flee from justice.

5. Hence the following order:

ORDER

- i) Application stands allowed.
- ii) Applicant is enlarged on bail in connection CR No. 442 of 2025 registered RAK Marg Police Station, Thane Mumbai for enlarged on bail on furnishing PR Bond of Rs. 15,000/- with one surety in the like amount, to the satisfaction of the Trial Court.
- iii) Applicant to attend each hearing of the trial court on all scheduled dates except exempted by the court.
- iv) The applicant shall not, directly or indirectly, interfere with or tamper with the prosecution evidence in any manner.

(R. M. JOSHI, J.)