

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO. 849 OF 2026

Afsar Ali Hasan Shaikh @ Hannan And Anr. ...Applicants
Versus
The State of Maharashtra ...Respondent

INTERIM APPLICATION NO. 817 OF 2026
IN

CRIMINAL BAIL APPLICATION NO. 849 OF 2026

Hashmant Ali Haidar Ali Khan ...Applicant
Versus
The State of Maharashtra ...Respondent

Mr. Ayush Pasbola, for the Applicants.

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

Mr. Vaibhav Ugle a/w Prashant Mahajan a/w Aditya Shinde a/w
Mr. Shubham Daswant for Intervener

CORAM: R. M. JOSHI, J.

DATED: 9th APRIL, 2026

PC:-

1. Applicants seek bail in connection with Crime No. 193 of 2025 registered with Agripada Police Station, Mumbai, for the offences punishable under Sections 103(1), 238 and 61(2) of Bhartiya Nyaya Sanhita, 2023 (for short "BNS").

2. In short, it is a case of the prosecution that Gulshan, wife of accused No.1 died on 2nd April, 2025. Initially an offence came to be registered punishable under Section 108 of BNS.

Later on, on the basis of FSL Report, the offence under Section 103 of BNS came to be added. In connection with this crime, Applicants who are the drivers of the deceased and Accused No.1 are arrested.

3. Learned Counsel for the Applicants submit that the evidence which is collected during the course of the investigation, even if it is accepted to be correct, the offence charged against the Applicants can not travel beyond Section 238 of BNS. In this regard, he made reference to the statements of the witnesses so also the C.C.T.V. footage. It is his submission that the co-accused against whom the similar role has been attributed is enlarged on bail by this Court by order dated 22nd December, 2025 passed in Bail Application No. 3844/2025. He further submits that Applicants have no criminal history behind them.

4. Learned APP and learned Counsel for the Informant oppose the application. It is their contention that there is sufficient evidence on record to indicate the involvement of the Applicants in this crime. In this regard reference is made to the statements of the daughter as well as maid servant of the deceased. Relying upon those statements, it is argued that the presence of the Applicant just before the occurrence of the incident so also after occurrence of the incident can be seen. Thus, according to them it is sufficient to infer that this is a case of conspiracy being hatched by the accused for committing murder of the deceased. Reference is also made by the learned

Counsel for the Informant to the memorandum statement of accused No.1 in which he attributes specific role against his driver. It is thus argued that considering the serious nature of crime, applicants are not entitled for bail.

5. *Prima facie* perusal of the record indicates that there is no allegation against the present Applicant who have been present at the spot of the incident. Apart from this, this Court finds substance in the contention of the learned Counsel for the Applicant that *prima facie* there is no evidence in order to indicate any conspiracy being hatched by the Applicants alongwith co-accused for committing murder of the deceased. The record on the face of it indicates that the offence which could be made attributable against the Applicants is punishable under Section 238 of BNS.

6. In absence of any evidence to indicate any conspiracy being hatched by the Applicants with the co-accused, it cannot be apparently made responsible for the alleged murder of the deceased. Applicants have no criminal history. They are not likely to flee from justice. Considering *prima facie* role appearing against them in this crime, they are entitled for bail. Hence, order.

ORDER

- i) Criminal Bail Application stands allowed in connection with Crime No. 193 of 2025 registered with Agripada Police Station, Mumbai, for the offences punishable under Sections 103(1), 238 and 61(2) of Bhartiya Nyaya Sanhita, 2023.

- ii) The Applicants be enlarged on bail, on furnishing P. R. Bond of Rs.15,000/- each with one surety in the like amount, to the satisfaction of the Trial Court.
- iii) The Applicant not to interfere in the evidence of prosecution, in any manner, whatsoever.
- iv) The Applicant to attend all dates of hearing before the Trial Court, unless exempted by specific order.
- v) Any breach of the aforestated condition shall result forthwith into cancellation of bail.

7. In view of the above, Application stands allowed and disposed of accordingly.

8. In view of the above, interim application also stands 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 final hearing of the Trial Case.

(R. M. JOSHI, J.)

VDMokal/-