

MHCC050003572`021



**IN THE COURT OF SESSION, AT DINDOSHI BORIVALI DIVISION,
GOREGAON, MUMBAI**

BAIL APPLICATION (EXHIBIT-07)

IN

SESSIONS CASE NO.36 OF 2021

IN

C. R. NO.939 OF 2020

Mohd. Ajhar Yusuf Shaikh,

..Applicant/Accused

Vs

The State of Maharashtra

(Through Sakinaka Police Station)

..Respondent

Advocate Jeetesh Varshney, for applicant/accused.

APP Shri Sudhir Sapkale, for the State/prosecution.

**Coram : His Honour Addl. Sessions Judge,
Shri Nandkishor L. More
(C.R.No.13)**

Date : 23rd April, 2025

(O R A L O R D E R)

(Dictated and pronounced in the open Court)

This application is for grant of regular bail in connection with C.R.No.939 of 2020 registered with Sakinaka Police Station for the offences punishable under Sections 307, 397, 353, 506, 504 read with Section 34 of the Indian Penal Code, Sections 4, 25 of the Arms Act read with Sections 37(1), 135 of the Maharashtra Police Act.

2. According to the prosecution, Mohd. Sharif Shamshulhuda Khan, a resident of Sakinaka is plying auto-rickshaw in the area. On 04.08.2020, he got passenger of Govandi-Mankhurd, Mumbai at 11.00 p.m. He reached Govandi and after dropping passenger. Two miscreants came in auto-rickshaw and asked the informant to take auto-rickshaw towards Sakinaka. The miscreants ordered the informant not to stop auto-rickshaw in midway, if anybody comes in or find police barricades, give dash and take auto-rickshaw ahead. Hearing the order given by the miscreants, the informant got scared.

3. On 05.08.2020 at about 1.00 a.m., when the auto-rickshaw reached near Tilak Nagar Bus Stop, Opposite to Natural Restaurant & Bar, Sakinaka, Mumbai, one miscreant put knife on the neck of the informant and snatched cash of Rs.5,200/- and mobile handset from the possession of the informant. Another miscreant collected bamboo stick lying by the side of road and started abusing auto-rickshaw driver and public assembled on the spot. When the miscreant who was holding knife attempted to give blow on the neck of the informant. However, the informant blocked the said blow, but it was landed on right palm of the informant. The second blow was landed on the thigh of the informant. The informant somehow managed to escape from the clutches of the said miscreants and started running. Three persons came to help the informant and tried to chase the miscreants. The said unknown miscreants gave blow of knife on the person who came to help the informant. After sometime, the police reached the spot. The miscreants also attempted to give blow of knife and bamboo stick on the person of police officials. When the miscreant rushed on the person of Police Inspector with knife, said Police Inspector fired pistol in the air and apprehended the assailant who disclosed his name as Mohd. Ajhar

Yusuf Shaikh. The accused came to be arrested immediately. After completing investigation, police have submitted charge-sheet against present applicant Mohd. Ajhar Yusuf Shaikh.

4. It is the contention of the applicant that he has been falsely implicated in the present crime. The applicant/accused has no past criminal antecedents or criminal records. The story of the prosecution and attack on police is false, concocted and afterthought. The medical documents filed on record alongwith charge-sheet does not go in consonance with the alleged story of the prosecution. It is submitted on behalf of the applicant/accused that the accused was fully drunk and was unsound mind and by the time he regain consciousness, he saw that he was in police custody and he do not remember what happened while he was in drunken state.

5. Heard the Ld. Advocate for the applicant/accused and the Ld. APP for the State/Prosecution.

6. The prosecution by filing say contested the application. It is submitted that seven offences have been registered against the present applicant/accused for committing dacoity and theft, and body offence registered with Trombay Police Station under Sections 452 and 324 of IPC and other etc.

7. I have perused the FIR and statements of witnesses. Apparently, the informant Mohd. Sharif Shamsulhuda Khan has received injury of stab wound 2 X 0.1 depth on right thigh by blunt object and injury was simple in nature. Except this injury report, there is no injury certificate of other prosecution witness. On the contrary, medical examination report of the accused shows multiple injuries on

the person of the accused which is not in consonance with story put forth by the prosecution. The Medical Officer advised for CT Scan of the brain, CT Scan of the face/maxillofacial region of the accused. The finding of CT Scan of the brain revealed, subgaleal hematoma injury in right anterior frontal and right parietal region. Minimally depressed fractures of bilateral nasal bone with septal hematoma. Whereas finding of CT Scan of the face/maxillofacial region of the accused revealed, horizontal linear fracture of bilateral nasal bone is seen with minimal displacement in right side. Mid septal hematoma is seen with no evidence of blockage of nasal vestibule. As such, the medical documents of accused filed alongwith charge-sheet gives impression that the accused had sustained severe injuries. Prima-facie, I find variance in the story narrated by the informant and prosecution in the charge-sheet. Investigation has already been completed. The accused came to be arrested on 05.08.2020. The accused has been booked under Section 307 of IPC. He is in custody since 4 1/2 years. In the circumstance, I find no fruitful result would come out by extending incarceration of the applicant/accused for further indefinite period. Although charge has been framed on 31.03.2023. But no efforts were made by the prosecution to examine the witnesses. The matter is pending for producing compilation of documents under Section 294 of Cr.P.C. since 03.05.2023. The ground of long incarceration of the accused also made out the case to grant bail. Hence, the order :

ORDER

- 1) Criminal Bail Application (Exh.07) in Sessions Case No.36 of 2021 is hereby allowed.
- 2) Applicant/accused **Mohd. Ajhar Yusuf Shaikh**, be released on bail on executing bond in the sum of Rs.15,000/- (Rupees

Fifteen Thousand Only), with surety in the like amount in Crime No.939 of 2020 registered with Sakinaka Police Station for the offences punishable under Sections 307, 397, 353, 506, 504 read with Section 34 of the Indian Penal Code, Sections 4, 25 of the Arms Act read with Sections 37(1), 135 of the Maharashtra Police Act.

- 3) The applicant/accused shall not directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any Police Officer.
- 4) Criminal Bail Application (Exh.07) stands disposed off, accordingly.

Date : 23.04.2025

(Nandkishor L. More)
Additional Sessions Judge,
City Civil & Sessions Court,
Borivali Division, Dindoshi

Dictated by HHJ on : 23.04.2025
Transcribed on : 24.04.2025
Signed by HHJ on : 25.04.2025

CERTIFIED TO BE TRUE AND CORRECT COPY OF THE ORIGINAL SIGNED JUDGMENT/ORDER”	
Date : 25.04.2025 Time : 5.40 p.m. UPLOAD DATE AND TIME	Mrs. S.B. Vichare (Stenographer Grade-I) NAME OF STENOGRAPHER
Name of the Judge (with Court Room No.)	HHJ Shri Nandkishor L. More (Court Room No.13)
Date of Pronouncement of Jud/Order	23.04.2025
Judgment/Order signed by P.O. on	24.04.2025
Judgment/Order uploaded on	25.04.2025

