

SESSIONS CASE NO. 175 OF 2021
(CNR No. MHNS070021522021)

The State of Maharashtra .. Complainant

Vs.

Sayyad Salman Abdul Khaliuque .. Accused no. 3

ORDER BELOW EXH. 99

Vide present application, accused Sayyad Salman Abdul Khaliuque seeks release on bail, on grounds inter-alia claiming parity with co-accused Naeem Ahmed Jamal Ahmed, released on bail, vide order dated 06.05.2025 passed by the Hon'ble High Court, Bombay, in Cri. Bail Application no. 4082/2024.

[2] Ld. Advocate for the accused vehemently contends that as the co-accused Naeem Ahmed Jamal Ahmed having similar role is released on bail, by the order of the Hon'ble High Court, therefore, this accused would be entitled to be released on bail. It is contended that the complainant did not give the name of this accused in the FIR, but this accused has thereafter been arrayed as an accused, in the offence, vide complainant's supplementary statement dated 06.08.2021. It is contended that accordingly this accused has been falsely implicated in this offence.

[3] It is further contended that even otherwise no serious allegations are made against this accused, except attributing the role of this accused having caught hands of the victim. It is contended that as co-accused Naeem attributed with similar role, been released on bail, thus, this accused is also entitled to be released on bail.

[4] Further submitted that this accused is under arrest since about 1½ years, co-accused are released on bail, no purpose will be served by keeping this accused arrested any further. Further submitted that the main charge-sheet was filed on 07.12.2021 and supplementary charge-sheet was filed on 06.05.2024, however, since then there has been no progress in the matter. Accordingly, release on bail is sought.

[5] Reliance is placed on -

(a) Order dated 12.07.2022 passed by the Hon'ble High Court, Bombay in Bail Application no. 200/2022 in the matter between Mohammad Raza Rahees Ahmed Vs. State of Maharashtra.

(b) Order dated 06.05.2025 passed by the Hon'ble High Court, Bombay in Cri. Bail Application no. 4082/2024 in the matter between Naeem Ahmed Jamal Ahmed Vs. State of Maharashtra.

[6] Bail application is resisted by filing objection at Exh. 100 and the Ld. APP vehemently contending that the present matter is a clear case of homicidal death and the FIR was filed against two accused and thereafter, the names of other accused got included in the offence.

[7] Ld. APP vehemently submits that co-accused Naeem has been released on bail, considering the limited role attributed to Naeem is recovery of blood-stained clothes only, as against this present applicant-accused Salman had more serious role and the memorandum narrated by him and subsequent panchanama has resulted into discovery and recovery of a knife, at the instance of this accused. Ld. APP argues that accordingly the role attributed to this accused is more serious as compared to the co-accused Naeem, thus, parity cannot be applicable. Further contended that the previous bail application preferred by this accused after the filing of the charge-sheet, was rejected on merits. It is contended that thus, there is no change in circumstances. Accordingly, contended of this bail application would not even be maintainable. Accordingly contended to reject the bail application.

[8] Upon perusing the bail application, the say filed, the charge-sheet and upon hearing both the Ld. Advocates, it appears that on 29.07.2021 at about 00:45 hours, complainant received an information from his younger brother Farid about their younger brother victim Anis been assaulted by accused Ashpak and Shera by means of sharp weapon. Upon Anis been taken for medical treatment, Anis succumbed to the injuries while under treatment. Thus, the FIR against co-accused Ashpak Ahmed and Mohammad Raza @ Shera.

[9] Supplementary statement of the complainant has led into arraying of some more accused including the present

applicant-accused. The role attributed to this accused is of having caught hands of the victim Anis and restrained his movements, and thereafter, co-accused Ashpak inflicts knife assaults on the victim. Whereas the role attributed to co-accused Naeem was of having given a knife in the hands of main accused Ashpak at the time of said occurrence. In such circumstances, comparative role of this accused becomes more serious than that of co-accused Naeem. The act of this accused of restraining the victim, rendering him helpless, becomes more serious. In such circumstances, role of co-accused Naeem and this accused cannot be equated, consequently, parity cannot be applicable.

[10] While allowing bail to co-accused Mohammad Raza, the Hon'ble High Court observed that the very presence of co-accused Mohammad Raza on the spot, does not seem to be made out. As against this, except contending a meagre role, presence of this accused has not been disputed even by the defence. Hence, parity vis-a-vis the role of co-accused Mohammad Raza cannot be considered for this accused.

[11] Further, bail application bearing Cri.B.A. no. 746 of 2024, preferred by this accused after filing of the charge-sheet, has been dismissed on merits, vide order dated 30/07/2024. Co-accused has been released on bail, cannot be a sufficient change in circumstances, more specifically in the circumstances of the role of such accused differing. Thus, in view of the above, there is no change in circumstances, after rejection of the previous

bail application, preferred after filing of the charge-sheet. Hence, the present bail application, would not be maintainable, for want of any change in circumstances, after rejection of the previous bail application.

[12] In view of the above, for want of change in circumstances, coupled with more serious role attributed to this accused vis-a-vis the co-accused Naeem, thus, it appears that this accused has not made out any case for being released him on bail. Hence, the following order.

ORDER

Application (Exh. 99) stands dismissed.

(Y. H. Ameta)
Additional Sessions Judge,
Malegaon.

Date : 03.09.2025