

Sessions Case No.115/2024.
1 Taloja C.R.No.215/2024
The State V/s Tahir Yusuf Shaikh and 1
Exhibit No.03

MHRG170019592024



ORDER BELOW EXH.03
IN SESSIONS CASE NO.115/2024
TALOJA C.R. NO.215/2024
THE STATE OF MAHARASHTRA V/S. TAHIR YUSUF SHAIK AND 1
(PASSED ON 15th DAY OF FEBRUARY, 2025)

This application is on behalf of the applicant/accused No.2 – Yusuf Ahmad Shaikh vide Section 439 of the Code of Criminal Procedure to enlarge him on bail.

2. This application is strongly opposed on behalf of prosecution as per reply Exh.05.

3. Points for the determination and my findings thereon for the reasons stated below ;

SR. NO.	POINTS	FINDINGS
I.	Whether grounds are justified to release the applicant/accused No.2 on bail vide Section 439 of the Code of Criminal Procedure ?	No.
II.	What Order ?	The application is Dismissed.

REASONS

4. Perused application, say filed. Heard learned advocate for the applicant/accused No.2 Shri.O.E.Dhamal and learned A.P.P. Shri.R.E.Yerunkar for the State.

AS TO POINTS NO. I :

BRIEF FACTS OF PROSECUTION :

5. The deceased was Sameer Shaikh aged 18 years was in love relations with the daughter of present applicant and sister of accused No.1 - Tahir Yusuf Shaikh. The incident took place on 02.06.2024 at about 03.30 pm at the house of accused. The deceased and the witness - Aliya were inside the room and accused No.1 came suddenly that time he got annoyed and started hitting to the deceased by spade. This accused No.1 called to the applicant. When applicant came, that time he with the help of sharp knife – *Koyata* started hitting to the deceased. The present applicant and accused No.1 dragged to deceased outside the house that time the deceased was shouting for help. The informant tried to rescue her that time accused No.1 rushed on her person with spade and hit her by kick as such she fell off. The witness - Asma Khatun informed the police and police came and hospitalized to the injured/deceased. The deceased succumbed to death at hospital during treatment.

6. On that count, the informant lodged the report dated 02.06.2024 at Police Station, Taloja. The Police Station, Taloja registered Crime No.215/2024 for the offence under Section 302, 323, 504, 34 of the Indian Penal Code against applicant/accused No.2 and other accused.

7. The police arrested the applicant/accused No.2 on 14.06.2024 and produced before the Court on 14.06.2024. Initially, he was remanded to police custody till 16.06.2024 which was extended till 18.06.2024 and 19.06.2024 and thereafter remanded to judicial custody as per order dated 19.06.2024. Presently, the applicant/accused No.2 is in Judicial Custody.

NOTICE TO VICTIM :

8. In the light of directions of Hon'ble Apex court in the case of **Jagjeet Singh V/s. Ashish Mishra @ Monu in Criminal Appeal No.632/2022 Dated 18.04.2022**, a victim is entitled to be heard at the stage of adjudication of bail application of accused. Relying upon these observations, the notice is issued to the informant and mother of deceased. The said notice is served to them. The mother of deceased namely Momina Abdul Malek Shaikh appeared and strongly objected to release the applicant /accused No.2 on bail.

WHETHER GROUNDS OF BAIL ARE MADE OUT ?

9. It is not in dispute that the deceased was aged 19 years and he was in love relations with the witness – Aaliya Yusuf Shaikh aged 17 years. This witness Aaliya is the daughter of present applicant and sister of accused No.1. The deceased on the day of incident on 02.06.2024 phoned to Aaliya as such she called him at the house. Both of them were at the house. The accused No.1 came in the noon and noticed that the room was locked inside. Then he hit the door by kicks and entered the house that time Aaliya and deceased were inside the bedroom. The accused No.1 got annoyed and started hitting to deceased by spade. She tried to rescue deceased from the clutches of her brother.

10. The witness - Aaliya came outside and called to the informant to save the deceased. The accused No.1 called to his father/present applicant. The present applicant came at the spot with Koyata in his hand and he started hitting to the deceased. The deceased was shouting loudly for help. They pulled him outside the house and hit him by spade and by Koyata on head, leg, hand and on back of the deceased.

11. The informant tried to rescue the quarrel that time accused rushed on her person by spade and hit her by kick on her abdomen. The witness - Aaliya and informant tried to rescue the deceased. The police came and hospitalized to deceased at MGM

Hospital. However he succumbed to death.

12. The investigation of the crime is over and charge-sheet is filed. On perusal of the charge-sheet, it appears that the investigating officer recovered the weapon of the offence. The statement of daughter of present applicant is recorded vide Section 164 of the Code of Criminal Procedure. Her statement substantiates to case of prosecution. The informant has narrated the incident. The statement of neighbourers also transpires about the incident. The mother of deceased had gone to hospital that time the deceased asked her for water and stated to her that present applicant and accused No.1 have hit him severely as such his hands and legs were broken. The postmortem examination report of the deceased reveals the multiple injuries in the column No.17. The cause of death is shown as death due to head injury with multiple injuries.

13. In the light of this evidence and statements of witnesses there is substantial evidence against the applicant. Looking to the magnitude of the offence coupled with involvement of applicant, he does not deserve for bail. The daughter of this applicant is eye-witness. If this applicant is released on bail then there is likelihood of tampering of evidence. On all these grounds, the applicant does not deserve for bail. I answer Point No. I in the negative. With this, I pass following order ;

ORDER

1.	The application vide Exh.3 for regular bail vide Section 439 of the Code of Criminal Procedure on behalf of the applicant/accused No.2 – Yusuf Ahmad Shaikh is dismissed.
2.	A soft copy of this bail order be forwarded to the applicant/accused No.2 through Superintendent, Taloja Jail by e-mail for information in view of observation of Hon'ble Apex Court in the case of In Re Policy Strategy For Grant of Bail in SMWP (CRIMINAL) NO.4/2021, Dated 31.01.2023.
3.	Inform to concerned Police Station accordingly.
	Dictated and pronounced in Open Court.

Place : Panvel.**Date : 15.02.2025**

(K.G. Paldewar)
Additional Sessions Judge,
Panvel

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Arguments heard on	16 th Day of January and 03 rd Day of February, 2025.
Judgment/order delivered on	15 th Day of February, 2025.
Dictated on	15 th Day of February, 2025.
Transcribed on	15 th Day of February, 2025.
Checked and signed on	15 th Day of February, 2025.

CERTIFICATE

I affirm that the contents of this PDF file
Judgment/Order is same and as per the original Judgment/Order.

Name of the Stenographer : K. N. Lokhande
Name of the Court : Additional Sessions Court,
Panvel
Date of Judgment/Order : 15.02.2025.
Judgment/Order signed on : 15.02.2025.
Presiding Officer : K.G. Paldewar
Judgment/Order uploaded on : 15.02.2025.