

MHTH290023952025



Order below Ex.05 in Sessions Case No.329/2025

(State of Maharashtra- Shantinagar police station Vs. Samsherali Nawasali Shah)

1] This is an application filed by applicant/accused namely Samsherali Nawasali Shah for seeking his release on bail.

2] Brief facts :

Complainant is brother of the accused. It is alleged that, complainant is residing at given address alongwith his mother, sister other brothers etc. His brother Jabbar working in factory at Shelar. His elder brother Shamsheer is doing work as a driver. Samsherali i.e. applicant was convicted in one case and after completion of said conviction he started residing with the complainant and others. It is alleged that, since his release from jail the applicant used to take suspect on sister Sana regarding her character. He did not allow sister Sana to go outside their house and also not allowed her to talk with any boy.

3] On 23.03.2025, complainant had been at Thane. At 08.30 pm his sister Rashida made a call to complainant and told that, the accused is making quarrel at their home. At 12.00 O'clock complainant came to their house and asked Rashida about reason of quarrel. Then, Rashida told him that, their sister Sana demanded

Vadapav to Sohail who is residing in front of their house. On that count, the accused caused beatings to Sana. Rashida tried to convince him but he left the house by saying that, she will not leave Sana. Then complainant and his other family members went for sleep. Thereafter, the accused came there and demanded his share to complainant in their property situated at UP. The complainant told him that, they will speak about the said topic in next morning. At 03.00 O'clock complainant and other family members were sleeping at their house. When the complainant was in sleep he feels that, some assaulted on his head. He noticed that, the accused was assaulting to him by means of Pata. The complainant asked him why he is doing the said act? At that time, the accused replied that, he will kill Sana and make her in pieces. Then, accused assaulted on head and face of Sana by means of Pata. When complainant's mother awoken, at that time accused made an assault on her head, and back etc. by means of Pata. He gave abuses to complainant and ran away by closing the door of their house outside. Then, after hearing noise of complainant and others, neighbour Sahil opened the door. Then, the injured were shifted to IGM Hospital for obtaining medical treatment upon them. After obtaining primary medical treatment, the injureds shifted to Civil Hospital, Thane for further medical treatment. The doctors at Civil Hospital, Thane advised them to take further medical treatment in J.J. Hospital or Sion Hospital, Mumbai, but complainant went at Nayar Hospital, Mumbai. Her mother and sister Sana were sustained grievous injuries to them, hence, they were admitted in said hospital. Complainant lodged complaint in this

regard. Accordingly, this crime is registered and police started investigation.

4] During investigation, police arrested the accused. They seized weapon used in the offence, from the spot of offence itself. After completion of investigation, they filed charge-sheet against the accused. Then, Ld. JMFC committed the case to this court for its trial.

5] Now, by filing this application, accused is seeking his release on bail. According to him, the allegations made in FIR are false and he has been falsely implicated. According to him, there is no any independent eye witness who noticed the accused while making an assault on injured. According to him, now, investigation is over and case is also committed to this court. Hence, his presence in custody is not necessary.

6] Ld. APP strongly resisted the prayer by filing reply. According to him, accused made an assault by means of pata upon his brother, sister and mother. According to him, there are eye witnesses who noticed the incident and accused may tamper them.

7] Ld. Advocate of accused submitted that, there was property dispute between the complainant, witnesses and accused and weapon used is seized from the spot itself. He submitted further that, now, the injureds are discharged from the hospital and accused is in jail for more than one and half year. He submitted further that, accused is suffering from heart deceased and for obtaining medical treatment, he may release on bail.

8] Ld. APP submitted that, injury certificate of both injureds show that, they have sustained grievous injuries on head portion due to an assault by accused.

9] It is a fact that, now, investigation is over and charge-sheet is also filed against the accused. But, record and investigation shows that, previously the accused is convicted for committing murder of his wife. It further appeared that, he used to take suspect about the character of his sister Sana and used to give threatenings to kill her. At the time of incident, there was quarrel between accused and Sana. Due to anger against her and complainant the accuse made assault upon them by means of Pata. In the incident, accused caused attack on her mother by means of Pata.

10] Injury certificate of the injured Nagma and Sana show that, they both have sustained grievous head injuries to them due to alleged attack on them by accused by means of pata. Record shows that, the accused had gave multiple blows by means of pata on head and other body parts of injureds. This behaviour / conduct of accused prima-facie sufficient to draw and inference that, he made an attack on his close relatives only with an intention to kill them.

11] The witnesses herein are close relatives of the accused and the incident happened inside their house, at late night hours. Hence, a possibility of availability of an independent witnesses on the spot is very less. A possibility cannot be ruled out that, the accused may made further assault or attack on eye witnesses/injureds after

his released on bail. The record further reflects that, sufficient material collected during the investigation to show that, the accused had made an assault upon the witnesses due to his anger and to cause grievous injury to them, with an intention to kill them. Record further shows that, a charge against the accused is already framed on 31.01.2026. But, seized muddemal was not brought before Court hence, the matter is not proceeded further. Now, muddemal is submitted in the Court and prosecution is ready to proceed with trial, as early as possible.

12] Considering all the above aspects, I am of the view that, accused has not made out the case to use discretion in his favour. In the interest of justice, it would be lawful to proceed with trial by keeping the accused behind bars. Hence, order. :

ORDER

1] Application, Exh.5 filed by accused for seeking his bail, stands rejected.

Bhiwandi.
13.08.2026

(N. L. Kale)
Additional Sessions Judge, Bhiwandi