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ENDORSED
FILED
Superior Court of California
County of San Francisco

APR 14 2023

CLERK OF THE COURT
BY: MONIQUE STEVENSON
Deputy Clerk

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 COUNTY OF SAN FRANCISCO

10 PEOPLE OF THE STATE OF CALIFORNIA,

Court No. 23005500

11
12 Plaintiff,

**NOTICE OF MOTION AND
MOTION TO DETAIN WITHOUT
BAIL**

13
14 vs.

15 NIMA MOMENI
16 Defendant(s).

Date: April 14, 2023
Time: 1:30pm
Dept: 10

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18 TO THE HONORABLE COURT AND DEFENDANT, BY AND THROUGH HIS/HER
19 ATTORNEY:

20 PLEASE TAKE NOTICE that on April 14, 2023 at 1:30pm, or as soon thereafter as
21 counsel may be heard in the above-entitled court, located at 850 Bryant Street, San
22 Francisco, California, 94103, the People of the State of California will move to detain
23 Defendant NIMA MOMENI without bail under the California Constitution.

24 This motion will be based on this notice of motion, on the following memorandum
25 of points and authorities, and on any exhibits lodged or filed with the Court, on such
26 supplemental memoranda of points and authorities as may hereafter be filed with the Court
27 or stated orally at the conclusion of the hearing on the motion, on all the papers and
28 records on file in this action, and on such oral and documentary evidence as may be

1 presented at the hearing of the motion.

2 Dated: April 14, 2023

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Omid Talai
Assistant District Attorney

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MEMORANDUM OF POINTS AND AUTHORITIES

STATEMENT OF THE CASE

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The charging document alleges that Defendant NIMA MOMENI committed one count of PC187(a) with an allegation pursuant to PC 12022(b)(1). As a result of the charged felony offense and allegations, Defendant faces 26 years to life.

STATEMENT OF THE FACTS

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The facts below are taken from SFPD reports, interviews and videos that will be presented at the time of the hearing. Attached hereto as Exhibit A - Sealed Arrest Warrant Affidavit (The People also seek a protective order, see People's motion), Exhibit B - SFPD Police Reports, Exhibit C - Compilation Video, Exhibit D - Photograph of Knife, Exhibit E - Defendant's Rap Sheet.

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On April 4, 2023 at approximately 2:35am, SFPD responded to 365 Main Street regarding a stabbing. (Exhibit B.) Upon arrival, SFPD observed Victim unresponsive and lying in the street. (*Id.*) Victim was uncontrollably bleeding from apparent stab wounds to his chest and hip. (*Id.*) Victim was rushed to San Francisco General Hospital where he was later pronounced deceased. (*Id.*)

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SFPD canvassed the area for a crime scene and located blood spatter on both sidewalks of the 400 block of Main Street. (*Id.*) While canvassing the area for additional evidence, SFPD observed a kitchen knife inside of the parking lot. (*Id.*) The kitchen knife was silver with a black blade, approximately 4" blade in length, with what appeared to be blood on it. (*Id.*)

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SFPD Homicide Investigators conducted an interview with Witness 1. (Exhibit A.) Witness 1 has known Victim for approximately 10 years and described himself as a close friend of Victim. (*Id.*) Witness 1 was with V during the afternoon and late evening of April 3, 2023, leading up to the murder. (*Id.*) On April 3, 2023, Victim invited Witness 1 to an apartment on the 1500 block of Mission St at approximately 3:30pm. (*Id.*) Witness 1 went to that location where the Victim, resident and female subject (Female) were drinking. (*Id.*) Witness 1 met Female

1 through Victim approximately 3-4 years ago. (*Id.*) Female was married but the
2 relationship had possibly been in jeopardy. (*Id.*) Witness 1 was unsure if Victim and
3 Female had an intimate relationship. (*Id.*) After some time, Victim informed Witness
4 1 they were leaving. (*Id.*) Victim talked with Female and invited her to go with them,
5 but she did not. (*Id.*)

6 Witness 1 said they left to go to Victim's hotel room at 1 Hotel San Francisco.
7 (*Id.*) While in Victim's hotel room, Witness 1 noticed Victim was having a
8 conversation with Female's older brother, Defendant Nima Momemi. (*Id.*) The
9 conversation was about Defendant picking up his younger sister from the house where
10 they had earlier met her on the 1500 block of Mission St. (*Id.*) Witness 1 said
11 Defendant was questioning Victim regarding whether his sister was doing drugs or
12 anything inappropriate. (*Id.*) Witness 1 said that Victim had to reassure Defendant
13 nothing inappropriate had happened. (*Id.*)

14 Witness 1 stated they then left to go to Victim's apartment where they
15 continued to hang out. (*Id.*) Witness 1 said that Victim left his apartment on April 4,
16 2023 at approximately 12:30am. Witness never saw Victim again. (*Id.*) The
17 following morning, Witness 1 called Female to ask if Victim had gone to her
18 apartment at the Millennium Tower, 310 Mission St., after Victim left his apartment.
19 (*Id.*) Female told Witness 1 that Victim came to her apartment "for a second," but
20 she fell asleep and didn't know when he left. (*Id.*) Based on these statements, SFPD
21 retrieved surveillance video from the Millennium Tower for evidence related to this
22 case. (*Id.*)

23 On April 3, 2023, at approximately 8:31pm, camera footage from the
24 Millennium shows a late model white BMW Z4 arrive at the property. (Exhibit C.)
25 The Defendant exits the vehicle wearing a white t-shirt and pants, and enters the
26 Millennium. (*Id.*) On April 4, 2023, at approximately 12:39am, camera footage from
27 the Millennium shows Victim arrive at and enter the Millennium. (*Id.*) Victim is
28 wearing all black clothing. (*Id.*) At approximately 2:03am, Millennium camera

1 footage shows Victim and Defendant enter an elevator together, take the elevator
2 down to the lobby and enter Defendant's white BMW. (*Id.*) Defendant is now
3 wearing a large light tan and white jacket, and a black beanie. (*Id.*) SFPD pulled
4 additional footage from around the area successfully tracking the Defendant driving
5 his white BMW, with Victim in passenger seat, to the 400 block of Main St. (*Id.*)

6 Video shows the BMW drive to a dark and secluded area, southbound on Main
7 St., and park just out of the bottom left of the frame. (*Id.*) The video is in color and
8 after the BMW parks, a red-tinted glow is visible at the bottom of the frame, consistent
9 with a parked vehicle with tail lights. (*Id.*) Eventually, two subjects enter from the
10 bottom left. (*Id.*) The subjects are too far away from the camera to identify their
11 faces. (*Id.*) One subject appears to be wearing dark-colored clothing consistent with
12 Victim, and the second subject appears to be wearing a light-colored top with white
13 trim, consistent with Defendant. (*Id.*) After standing on the sidewalk for
14 approximately five minutes, the subject wearing the light-colored top appears to
15 suddenly move toward the other subject, in the direction from the street toward the
16 CalTrans Fence. (*Id.*) The subjects then separate. (*Id.*) The subject with the dark-
17 colored clothing walks northbound on the west sidewalk where additional camera
18 footage shows Victim walking away and injured. (*Id.*) The subject in the light-
19 colored top walks south on the west sidewalk and stops along the fence line in the
20 immediate area where the knife was recovered. (*Id.*) Shortly after that, the white
21 BMW leaves at a high rate of speed. (*Id.*)

22 On April 11, 2023, officers assigned to the SVRCFL were able to unlock both
23 of Victim's phones using passcodes provided by Victim's family. (Exhibit A.) Phone
24 call log indicated a FaceTime call between "Nima Via Khazar" and Victim. (*Id.*)
25 Victim's telephone also shows a text message from Female, Defendant's sister who
26 lives at the Millennium, saying, "Just wanted to make sure your doing ok Cause I
27 know nima came wayyyyyyy down hard on you And thank you for being such a classy
28 man handling it with class Love you Selfish pricks". (*Id.*)

1 Dr. Ellen Moffatt conducted the autopsy on the Victim. (*Id.*) Per Dr. Moffatt,
2 Victim was stabbed three separate times, once in the hip and twice in the chest. (*Id.*)
3 One of Victim’s stab wounds directly penetrated his heart, causing his death. (*Id.*)

4 REQUEST FOR JUDICIAL NOTICE

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6 The People request that this Court take judicial notice of the statutes listed in
7 the charging document(s) and court records offered as exhibits. (Evid. Code §§ 451,
8 subd. (a), 452, subd. (d). The People notice their intent to request that this Court to
9 take judicial notice of the court records attached as exhibits to this motion. (Evid.
10 Code § 453.)

11 ARGUMENT

12 I. DETENTION WITHOUT BAIL IS WARRANTED UNDER ARTICLE I, SECTION 12.

13 Article I, section 12, subdivision (b) allows a court to detain a person without bail
14 for felony offenses involving violence or felony sexual assault “when the facts are evident
15 or the presumption great and the court finds based on clear and convincing evidence that
16 there is a substantial likelihood the person’s release would result in great bodily harm to
17 others[.]” (Cal. Const., art. I, § 12, subd. (b).) Article I, section 12, subdivision (c) allows
18 a court to detain a person without bail for “[f]elony offenses when the facts are evident and
19 the presumption great and the court finds by clear and convincing evidence that the person
20 has threatened another with great bodily harm and that there is a substantial likelihood that
21 the person would carry out the threat if released.” (Cal. Const., art. I, § 12, subd. (c).)

22 In *White*, the complaint charged the defendant with attempted kidnapping to commit
23 rape [Pen. Code § 209], assault with intent to commit rape [Pen. Code § 220], contact with
24 a minor to commit a sexual offense [Pen. Code § 288.3], and false imprisonment [Pen.
25 Code § 236]. (*In re White* (2018) 21 Cal.App.5th 18 review granted May 23, 2018.)¹ The

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28 ¹ (Cal. Rules of Court, rule 8.1115(e)(1) [pending review with the Supreme Court, a
published opinion of the Court of Appeal in the matter has no binding or precedential
effect but may be cited for potentially persuasive value].)

1 court in *White* concluded that the defendant was highly dangerous, even as an aider and
2 abettor, because he encouraged and planned a deliberate attack that occurred during the
3 day on a heavily trafficked street, targeting a vulnerable stranger. The defendant also
4 worked in concert with the co-defendant “to increase the odd of the attack’s success.” (*Id.*
5 at p. 30.) Although the co-defendant had not completed the attack, the court of appeal
6 ruled that the trial court reasonably inferred that the defendant knew that the co-defendant
7 intended to rape the victim, “a devastatingly harmful injury[.]” (*Id.*) The court
8 acknowledged that the defendant did not have a criminal record, denied the allegations
9 during interviews with the police, and that no great bodily injury had been
10 inflicted. (*Id.*) Yet, based on the circumstances of the case, the *White* court concluded that
11 the trial court could reasonably find that the defendant “acted so brazenly, so inexplicably,
12 and so without regard for the laws and norms of society that there would be a substantial
13 likelihood that his release would result in great bodily harm to others.” (*Id.* at p.
14 31.) Thus, the *White* court concluded that sufficient evidence supported the trial court’s
15 detention order. (*Id.*)

16 Here, like *White*, there would be a substantial likelihood that Defendant’s
17 release would result in great bodily harm to others. The Defendant drove Victim to
18 a dark and secluded area in the opposite direction of his hotel. We know through a
19 text message from Defendant’s sister to Victim, Defendant was previously upset
20 with Victim and came “down hard on” him. Moreover, through Defendant’s sisters’
21 text, we know that Victim, unlike the Defendant, handled himself with “class.” The
22 Defendant not only drove Victim to a secluded area in the opposite direction of his
23 hotel, but also brought a kitchen knife with him. Defendant did not use some type
24 of pocket knife, but a cooking knife from an apartment and kitchen. This was a
25 planned and deliberate attack. After driving Defendant to a removed and remote
26 location, Defendant stabbed Victim three separate times, including twice in the
27 chest. One of the stab wounds, showing a direct and clear intent to kill, penetrated
28 Victim’s heart. Immediately after stabbing Victim, Defendant threw the kitchen
knife, fled the scene in his white BMW at a high rate of speed, and left Victim to

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slowly die. Detention is necessary to protect public safety.

Date: April 14, 2023

Respectfully submitted,



Omid Talai
Assistant District Attorney

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PROOF OF SERVICE

People v. NIMA MOMENI

Case No. 23005500

I, the undersigned, declare:

I am, and at all times mentioned herein was, over eighteen years of age and not a party to the above-entitled cause. I am employed in the City and County of San Francisco, California.

On April 14, 2023, I served a true copy of the attached:

NOTICE OF MOTION AND MOTION TO DETAIN WITHOUT BAIL

I declare under penalty of perjury that the foregoing is true and correct.

Executed on 4/14/2023 at San Francisco, California.

