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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

17  
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



Omid Talai  
Assistant District Attorney

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**MEMORANDUM OF POINTS AND AUTHORITIES**

**STATEMENT OF THE CASE**

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**

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.

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.*)

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.*)

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 wayyyyyy 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

### 5 REQUEST FOR JUDICIAL NOTICE

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.)<sup>1</sup> The  
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27 <sup>1</sup> (Cal. Rules of Court, rule 8.1115(e)(1) [pending review with the Supreme Court, a  
28 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

1 slowly die. Detention is necessary to protect public safety.

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3 Date: April 14, 2023

Respectfully submitted,

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5 Omid Talai  
6 Assistant District Attorney

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