IN THE JUDICATURE OF HIGH COURT AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO. 370 OF 2025

Sahadev s/o Prabhu Harale,
age 48 years, Occ. Legal Practitioner,
R/o Ghatrnagri (native Village), Umbre Kota,
Dharashiv, Tq. and Dist. Dharashiv,
At Present Residing,
Kavva Road, Latur, Tq.Dist. Latur. ...**Applicant**

VERSUS

The State Of Maharashtra,
Through Police Inspector,
Rural Police Station,
Dharashiv, Tq. and Dist.
Dharashiv. **...Respondent**
...

Advocate for Applicant : Senior Counsel Mr. V. D. Sapkal i/b Advocate Mr. Jadhav Narsing Bankatrao a/w Advocate Mr. M. B. Karande
APP for Respondents-State: Mr. A. A. A. Khan
Advocate for Assist to APP : Senior Counsel Mr. V. D. Hon i/b Mr. .R P. Bhumkar

...

WITH
CRIMINAL APPLICATION NO. 976 OF 2025
IN ABA/370/2025
....

CORAM : ARUN R. PEDNEKER, J.
Dated : March 20, 2025.

ORDER :-

1. Criminal Application No.976 of 2025 is filed for Assist to the learned APP. Said application is allowed and disposed of.

2. Heard learned Senior Counsel Mr. V. D. Sapkal for the applicant, learned APP Mr. A. A. A. Khan for the respondent-State, and learned Senior Counsel Mr. V. D. Hon assisting the learned APP.

3. The applicant is apprehending arrest in connection with FIR

No.35/2025, dated 03/02/2025, registered at Rural Police Station, Dharashiv, Taluka and District Dharashiv, for the offences punishable under sections 103(1), 118(1), 115(2), 189(2), 190, 191(2), 191(3) of Bharatiya Nyaya Sanhita.

4. The First Information Report was lodged on 03/02/2025 by Kalpana Dilip Harale, the daughter-in-law of the deceased, regarding an incident that occurred on 02/02/2025 at 12:00 noon.

5. In the FIR it is alleged that the informant's father-in-law, Eknath Bhima Harale, was returning home from the Vitthal Temple, upon reaching the house of Sugriv Babu Thorat, Keshav Mahadev Harale came running with a rod in his hand and struck Eknath on the head, causing a bleeding injury. As a result, Eknath fell to the ground, with blood oozing from his head. At that moment, Mahadev Ravan Harale assaulted Eknath with a stick on his hand and leg, while Vaishnavi Keshav Harale struck him on the head with a stone.

6. It is further alleged that Sahadev Prabhu Harale (the present applicant) also assaulted Eknath with a stick on his body, back, and head. Additionally, Rajubai Mahadev Harale and Hanumant Shahaji Harale abused Eknath and assaulted him with kicks and fist blows.

7. Initially, the offence was registered under Section 109 of the Bharatiya Nyaya Sanhita, corresponding to Section 307 of the Indian Penal

Code. However, as the injured person succumbed to his injuries on 04/02/2025, Section 103(1) of the Bharatiya Nyaya Sanhita, corresponding to Section 302 of the Indian Penal Code, was subsequently invoked against the accused.

8. A supplementary statement of the first informant was recorded, and additional witnesses were examined on 10/02/2025. In this statement, the first informant named two more individuals as accused and one of the eye-witness has stated the time of the incident to between 11:00 and 11:30 a.m. Total 8 accused are named in the FIR. The present applicant is accused No. 4 and has filed this anticipatory bail application. The applicant/accused has been a practicing Advocate for the past 25 years.

9. The primary contention of the applicant is that he has no connection with the crime in question or with the other co-accused, except for sharing the surname ‘Harale,’ which is common to all the accused.

10. The applicant further asserts that he has filed multiple cases against the informant’s family, who have lodged complaints against him. The applicant’s father, Prabhu Harale, filed RCS No. 30/1998 for recovery of possession and a perpetual injunction. The suit was decreed, and the order was confirmed up to the Hon’ble High Court in Second Appeal No. 200/2016, vide order dated 11/08/2016. The decree was executed against

the deceased, Eknath Harale.

11. Additionally, the applicant conducted RCS No. 596/2016 on behalf of the plaintiff and obtained an Exh. 5 order in the plaintiff's favor against Eknath Harale. In Criminal M.A. No. 539/2016, the learned JMFC passed an order under Section 156(3) of Cr.P.C., leading to the registration of an FIR against the deceased, Eknath Harale.

12. Furthermore, the applicant has initiated various legal proceedings against certain police officers. The details of these cases are as follows : -

Sr.No.	Case Number/ Crime Number	Informant/ Accused	Sections
1	RCC No.121/2010	Adv.Sahdev Harale vs. D.S.Khatke	307,325,102(B),166,504,506,34 IPC
2	Cri.No.595/2013	Adv.Sahdev Harale vs. Babasha Sitaram Ankush	392,394,397,323, 341,504,506,34 IPC
3	Cri.No.313/2014	Adv.Sahdev Harale vs. Dilawar Pathan	109,110,120(B),166, 167 IPC
4	Cri.No.07/2015	Adv.Sahdev Harale vs. State	395 IPC
5	Cri.No.207/2015	Adv.Sahdev Harale vs. Suresh Ghadge	307,342,120(B),166,167,191,195,200,511, 465,466,467,468, 469,470,471,503,34 IPC
6	RCC No.243/2015	Adv.Sahdev Harale vs. Dipak Dhongade	420, 34 IPC
7	Cri.No.325/2016	Adv.Sahdev Harale vs. Mahadev @ Balu Laxman Chavan	465,467,468,471, 420,177,181,182, 196,201,203,34 IPC
8	Cri.No.48/2017	Adv.Sahdev Harale vs. State	307 IPC
9	Cri.No.60/2017	Adv.Sahdev Harale vs. Sambhaji Pawar	395,354,323,426, 452,500,504,506, 509,120(B),166,143, 147,148,149 IPC
10	Cri.No.19/2017	Adv.Sahdev Harale vs. State	307 IPC
11	Cri.No.279/2019	Adv.Sahdev Harale vs. Anil	324,323,341,504,506

		Balwantrao Kulkarni	IPC
12	Cri.No.22/2019	Adv.Sahdev Harale vs. State	397, 399 IPC
13	RCC No.163/2015	Adv.Sahdev Harale vs. vs. Dilip Dhongde	420,34 IPC

The case of the applicant/accused is that there is longstanding enmity between him and the informant's family. Additionally, he has filed multiple complaints against police officers, and he submits that he has been falsely implicated in this crime as a result. He has also represented the other accused in cases filed by the informant in the civil matter.

13. In this background, the learned Senior Counsel Mr. V. D. Sapkal for the applicant submits that applicant has been residing in Latur with his wife and son since June 2024. On 01/02/2025, he was at his residence in Latur until 4:00 p.m. He further states that CCTV footage from 31/01/2025 and 01/02/2025 is available to establish his presence in Latur during that period.

14. The learned Senior Counsel for the applicant further submits that on 02/02/2025, after 11:00 a.m., applicant was at Magic Touch Hair Salon for a haircut, as it was a Sunday. He asserts that CCTV footage from the road-facing camera would confirm his presence there. He also submits that he made a payment of Rs.100/- to the salon owner. Thereafter, he visited a fruit stall and paid Rs.100/- via PhonePe QR code at approximately 11:49

a.m.

15. On that day, the applicant was experiencing dehydration. Since it was a Sunday and private hospitals were closed, he visited Vilasrao Deshmukh Government Medical College and Hospital in Latur at 12:45 p.m., where he was admitted and subsequently discharged on 03/02/2025 at 1:10 p.m. He submits that the medical records and the CCTV footage of the Government Hospital would confirm his presence.

16. In view of the above, the learned Counsel for the applicant submits that applicant was 92 kilometers away from the place of the incident, i.e., Ghatangri, Tq. Dist. Dharashiv (Osmanabad), at the relevant time of incident. The applicant had submitted an application to the Investigating Officer on 06/02/2025, requesting verification of his whereabouts at the time of the incident.

17. The applicant has provided a list of cases (as mentioned above) that he has filed against police officers. Notably, in one such case, a senior police officer from Dharashiv District remained in police custody for two months before being granted bail.

18. The learned Counsel for the applicant submits that the applicant had filed an application before the Investigating Officer, requesting for

collection of evidence to establish his plea of alibi. This includes retrieving the tower location of his mobile number, Call Detail Records (CDR), CCTV footage, and his medical case papers from the Government Hospital, Latur. He also requested that the statements of the owners of Magic Touch Hair Salon and Radhe Radhe Fruit Stall be recorded.

19. Additionally, the applicant urged the Investigating Officer to collect CCTV footage from village Ghatangri, particularly from the locations where the alleged incident occurred, as Sugriv Thorat and Bhau Shahu Shinde had installed CCTV cameras at their residences. Despite these requests, the prosecution, driven by malafide intent, is pressing for the applicant's custody.

20. Per contra, the learned APP relies on the order of this Court at the Principal Seat in ***State of Maharashtra vs. Laxman Kishan Shriashat*, reported in 1996 Cri LJ 1282**, and submits that there is eyewitness evidence against the applicant. The informant has provided the police with the names of three witnesses. Therefore, the defence of the applicant/accused, claiming that he was not present at the crime scene, should not be considered at this stage of the investigation.

21. The learned APP further contends that the investigation is not yet complete in its full-fledged form. Considering the gravity of the offence, he

urges that the anticipatory bail application be dismissed. He also submits that the injured was taken to the hospital, and as per the medical history recorded by his son, the incident occurred at 11:00 a.m. If the offence indeed took place at that time, it would have been practically possible for the applicant to commit the offence and then travel to Latur to fabricate a plea of alibi. The learned APP submits that there are antecedents against the applicant. However, the applicant is acquitted in all the cases.

22. The learned Senior Counsel, Mr. V. D. Hon, appearing for the informant, submits that the applicant has been a persistent nuisance in the history of Dharashiv and that multiple complaints have been filed against him, including by Civil Revenue Officers. However, despite the numerous cases filed against the applicant over time, he has been acquitted in all of them.

23. The learned Senior Counsel further contends that granting anticipatory bail to the applicant would send a wrong message to society.

24. Considering the rival submissions, certain facts need to be noted. In 1998, the father of the applicant had filed RCS No. 30/1998 for recovery of possession and perpetual injunction. The said suit was decreed in his favor, and the decree was executed against the deceased.

25. In July 2000, the applicant accepted *Vakilpatra* and represented cases against the relatives of Eknath Bhima Harale. In RCS No. 596/2016,

the applicant, acting as an Advocate, obtained an order on Exhibit 5 against the deceased Eknath Harale. Additionally, the applicant had appeared in Criminal M.A. No. 539/2016 before the JMFC, who passed an order under Section 156(3) of the Cr.P.C., leading to the registration of an FIR against Eknath Harale and his family.

26. On 01/02/2025, the applicant claims to have been in Latur and has submitted certain records to the Investigating Officer. On 02/02/2025, he visited a hair salon and made a payment of ₹100 at 11:38 a.m. by scanning a QR code on PhonePe. Thereafter, he purchased fruits from Radhe Radhe Fruit Stall and paid ₹100 via PhonePe at 11:49 a.m.

27. It is further stated that after getting a haircut, the applicant returned home and, while applying hair dye, started experiencing vomiting and loose motions. He initially visited a private hospital, but as it was a Sunday, the doctor was unavailable. Consequently, he proceeded to Vilasrao Deshmukh Government Medical College and Hospital, Latur, which is more than 92 kilometers away from Ghatangri, the place of the incident.

28. As the applicant did not have cash, he paid ₹20 to Mazhar Shaikh at 12:38 p.m. in the Civil Hospital for issuing a case paper. He was then admitted to the hospital on 02/02/2025 at approximately 12:45 p.m. and discharged on 03/02/2025 at 1:10 p.m. by the Government Hospital, Latur.

29. Despite submitting these documents, the police, in the remand report at paragraph No.7, have stated as follows : -

> "दिनांक ०६/०२/२०२५ रोजी अर्जदार/आरोपी यांनी ॲडव्होकेट एस.पी. इंगळे यांचेहस्ते पोलीस ठाणे धाराशिव ग्रामीण येथे सीसीटीव्ही फुटेज आणि माझ्या मोबाईलचे लोकेशन व सीडीआर आणि दवाखान्याचे वैद्यकीय कागदपत्रे जप्त करुन हस्तगत करणे बाबत व जाब जबाब नोंदविणे बाबत या आशयाचा अर्ज दिला होता त्या अनुषंगाने पोस्टेचे पोउपनि बनसोडे यांना लातुर येथे पाठवुन त्यांनी दिलेल्या निवेदनाची खातरजमा केली असता त्यांनी अर्जदार/आरोपी यांनी ज्या–ज्या ठिकाणी सीसीटीव्ही फुटेज असल्याचे नमुद केले आहे त्या ठिकाणी जावुन पाहणी केली तसेच साक्षीदारांचे जबाब नोंदविले आहेत व सिव्हील हॉस्पिटल लातुर येथे जावुन पाहणी केली असता अर्जदार/ आरोपी यांचे नावाने दिनांक ०२/०२/२०२५ रोजी १२.४५ वाजता त्यांनी मेडीकल केस रेकॉर्ड क्रं.०३०३८८ अन्वये नाव नोंदणी केली आहे परंतु सदरची चिठ्ठीचे अवलोकण करता त्यावर ०१/०२/२०२५ या तारखेचा स्टॅप आहे. त्याबाबत आरोपी/ अर्जदारयांना ताब्यात घेउन बारकाईने तपास करणे आवश्यक आहे."

It is observed that although the document pertains to 02/02/2025 at 12:45 p.m., the medical case record No. 030388 bears a stamp dated 01/02/2025. As a result, the Investigating Officer pressed for the custody of the applicant before the Sessions Court.

30. The Medical Officer of Government Hospital, Latur, has provided an explanation regarding the discrepancy in the stamp. In a letter dated 22/02/2025, the Medical Officer clarified that although the stamp was put on 02/02/2025, it inadvertently retained the previous date as no change was made from 01/02/2025. However, he categorically stated that case paper No. 030388 pertains to Sunday, 02/02/2025, between 12:00 to 12:30 p.m. He further explained that, due to a rush at the hospital, the stamp

applied was from the previous day without the date being updated. This information was formally provided by the Medical Officer to the Investigating Officer on 22/02/2025.

31. The CCTV footage from the Government Hospital is also available, and the Investigating Officer has collected documents which would prima facie establish the applicant's plea of alibi. Notwithstanding this, i.e. despite the plea of alibi being supported by government records and contemporary digital payment transactions, the prosecution continues to press for the custodial interrogation of the applicant. Ordinarily, this Court, in cases involving grave offences, allows the prosecution to proceed with custodial interrogation for the purpose of investigation. However, in the instant case, considering the rivalry between the parties and the applicant's previous conflicts with the police, granting custodial interrogation may be unwarranted and potentially dangerous.

32. Though the prosecution possesses evidence indicating the presence of the applicant at another location, it continues to insist on his custodial interrogation. It is pertinent to note that the applicant has previously represented cases against the deceased and his family members, thereby raising the possibility of false implication.

33. Furthermore, the supplementary statement of the informant, recorded on 10/02/2025, does not mention that the incident occurred at

11:00 a.m. The statements of other witnesses were also recorded on the same date. In a murder case the police have recorded the statement of eye-witnesses after eight days of incident.

34. In the present factual situation, where the plea of alibi is *prima facie* established by the CCTV footage of the Government Hospital and documentary evidence emanating from government records, and considering the rivalry between the parties as well as the hostility of the police towards the applicant, the grant of custodial interrogation of the applicant is not warranted. The investigation in the matter can be completed even without the applicant's custodial interrogation. Therefore, this Court is of the view that such interrogation is unwarranted, particularly when the police have not produced documentary evidence showing that the applicant traveled back from Ghatangri, Dist. Osmanabad, to Latur during the daytime, whether through CCTV footage, mobile location records. This Court is of the *prima facie* view that the applicant has been falsely implicated in the offence.

35. In view of the above, the application is allowed in the following terms: -

i] In the event the applicant is arrested in connection with FIR No.35/2025, dated 03/02/2025, registered at Rural Police Station, Dharashiv, Taluka and District Dharashiv, for the offences punishable under sections 103(1), 118(1), 115(2), 189(2), 190, 191(2), 191(3) of Bharatiya Nyaya Sanhita, he shall be released on bail on furnishing

PR bond of Rs.20,000/- with one or two sureties in the like amount to the satisfaction of the trial Court.

ii] The applicant shall attend the police station as and when called by the police.

iii] The applicant shall not tamper with the evidence of the prosecution in any manner. He shall not influence the informant, witnesses and other persons concerned with the case.

iv] The applicant shall co-operate with the investigation and also in the proceedings before the trial Court.

36. In the event, the applicant violates any of the conditions specified in this order, it shall be liable to be cancelled.

37. It is also clarified that the observations made in this order are limited to the disposal of the present anticipatory bail application and the trial Court shall proceed further in the matter without being influenced by the observations made hereinabove.

38. The application stands disposed of.

(ARUN R. PEDNEKER, J.)

vj gawade/-.