



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO. 25 OF 2025

Salman Pathan Jilani Pathan,
Age : 27 Years, Occu: Labour,
R/o. Udgir, Tq. Udgir, Dist. Latur.

... Applicant.

Versus

The State of Maharashtra
Through - Police Station Udgir Rural,
Tq. Udgir, Dist. Latur.

... Respondent

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Mr. Ajinkya Reddy, Advocate for the Applicant.
Mr. S. B. Narwade, APP for Respondent-State.

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CORAM : ABHAY S. WAGHWASE, J.

DATE : 26.02.2025

ORDER :

1. Applicant seeks grant of regular bail in crime no. 0492 of 2024 registered at Udgir Rural Police Station, District Latur for offences punishable under Sections 103(1) and 3(5) of the Bharatiya Nyaya Sanhita (BNS).

2. Pointing to the date of arrest as 05.09.2024, it is submitted that occurrence is of 03.09.2024. That, no overt act is attributed to the

applicant except allegedly pushing, but there is variance regarding such allegation in the FIR as well as statement of eye witness. He pointed out that main allegations of assault on head are attributed against other accused. Even death is attributed due to head injury. That, investigation is over and charge sheet is already filed in November 2024 itself. Learned counsel submitted that when there is no overt act or allegation of use of any article, nothing is to be recovered or discovered at applicant's instance and therefore, his further custody is not required. He pointed out that charge sheet being of 2024, it will taken sufficiently long time for trial to commence and conclude. As applicant is ready to abide all and any conditions imposed by this Court, learned counsel seeks grant of bail.

3. Learned APP opposed on the ground that serious offence is committed and that there is death. Deceased died due to head injury. That, applicant was present at the time of the incident. According to learned APP, Section 3(5) of BNS has been invoked. For all above reasons, bail is opposed.

4. Heard. Perused the papers. Report dated 05.09.2024 at the instance of Nirmala Baliram Sangwe is that on 03.09.2024, as usual, her husband Baliram left for agricultural work in the morning. She

claims that around 9.30 p.m., her relatives Shivrudra and Chandrakala brought her husband in injured condition and so she questioned her husband as to what happened, upon which, her husband allegedly told her that around 9.00 a.m. when he, Ajay, Mahesh and Dayanand were all chatting near Basaweshwar Chowk, at that time, one Ertiga car bearing registration no. MH 02 DC 0961 came near them. Ajay allegedly asked the driver to take the vehicle from other side. Therefore, it is alleged that, two persons got down from the vehicle and kicked the two wheeler motorcycle occupied by Ajay and abused and slapped Ajay and Mahesh. That time Salman Jilani Pathan (applicant), Sajjad Hajipasha Sayyad were sitting in the car. She claims that her husband further reported that when he went to question them why they were fighting, it is alleged that, Salman (present applicant) gave push to Avinash, as a result of which he fell. Thereafter, informant alleged that her husband told that Sajjad assaulted her husband with wooden stick on the head. That, her husband was taken to hospital, but on 04.09.2024, he initially went in coma and while being treated at Latur, he was reported to be dead and therefore above report.

5. At least in the FIR at the instance of wife, which is on receipt of information from her husband, only role attributed to the present

applicant is of giving push to Avinash. Statement of Avinash is also brought to the notice of this Court and on visiting the same, as submitted, he has not named Salman Pathan. He has also attributed assault to Sajjad Hajipasha Sayyad. No allegations of he being pushed by present applicant are reported by him in his statement to police on 06.09.2024. Therefore, precisely taking such material into consideration, when charge sheet is filed in November 2024 and no recovery or discovery is shown to be made at the instance of the applicant, no purpose would be served by his further detention. Hence, I proceed to pass the following order:

ORDER

- I. The application is allowed.
- II. Applicant Salman Pathan Jilani Pathan be released on bail in connection with Crime No. 0492 of 2024 registered at Udgir Rural Police Station, District Latur, on executing Personal Bond of Rs. 15,000/- with one surety in the like amount, on the following conditions:
 - [a] The applicant shall not tamper prosecution evidence.
 - [b] The applicant shall not enter the vicinity where the informant and her family members reside, till conclusion of trial.
 - [c] The applicant shall not leave the area of jurisdiction of the concerned police station till conclusion of trial.

[d] The applicant shall attend the concerned police station twice in every week i.e. on every Thursday and Monday and maintain personal diary of his attendance till committal of the case and thereafter, shall regularly attend each and every effective date before the trial court.

[ABHAY S. WAGHWASE, J.]

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