



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

BAIL APPLICATION NO.26 OF 2025

Bhanudas S/o Fakirrao Ghitre
Age: 50 years, Occu.: Agriculture
R/o. Raipur, Tq. Gangapur,
District Aurangabad

... Applicant

Versus

The State of Maharashtra
Through Superintendent of Police,
Shillegaon Police Station,
Aurangabad.

... Respondent

.....
Dr. Anagha N. Pedgaonkar, Advocate for Applicant
Mr. V.M. Chate, APP for Respondent – State

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CORAM : ABHAY S. WAGHWASE, J.

RESERVED ON : 05 FEBRUARY 2025

PRONOUNCED ON : 07 FEBRUARY 2025

ORDER :

1. This regular bail application is filed on account of arrest of applicant in Crime No.0193 of 2023 registered at Shillegaon Police Station, District Aurangabad for offences punishable under Sections 302, 307, 326, 324, 323, 143, 147, 148, 149, 504, 506 of the Indian Penal Code (IPC).

2. In support of relief, learned counsel for the applicant pointed out that above crime has been registered on statement of deceased. That,

alleged occurrence is of 26.06.2023. That, applicant is arrested in above crime on 22.07.2023. Learned counsel pointed that out of the eight accused who were named, seven have already been released on bail at the hands of this Court and the Trial Court, and as such, except the present applicant all others are released. That, accused and complainant are in relation and are having lands adjoining to each other. There is dispute over the land and as such measurement was being done, and in that backdrop, there was said to be free fight between two groups. That, now investigation is over, and charge-sheet is already filed. That, allegations of use of iron angle affixed at the spot is already seized by the police machinery. Therefore, there is no further recovery to be made. That, there is uncertainty about the matter going for trial in immediate future, and as applicant is behind the bars since more than 1 ½ year, she seeks grant of bail.

3. Learned APP opposed the application on the ground that, there is offence under Section 302 of IPC. That, there is independent eyewitness account. That, there are allegations of mercilessly assault of deceased by use of iron angle. That, one of the labour person on the site had videography of occurrence. That, his statement is recorded, and as such, learned APP seeks rejection, as according to him, though other accused are released on bail, role of applicant is crystallized. For all above reasons, he opposed to grant relief of bail.

4. After hearing above submissions and on going through the papers, it is emerging that, on statement of deceased Parmeshwar Ghitre dated 27.06.2023, crime has been registered, wherein he had reported that, on 26.06.2023, there was measurement got done through authorities. He has alleged that, his uncle Bhanudas Ghitre, i.e. present applicant, Dnyaneshwar Ghitre, Eknath Ghitre uprooted the angle affixed for measurement, and he was assaulted and allegations of hitting stones are attributed to Dividas, and therefore, deceased was initially taken to Government Hospital at Lasur Station, and thereafter, taken to Aurangabad, and as such, he has named eight persons for the assault. Fundamental ground for grant of bail, which is put forth is that, there was no intention and it was sudden occurrence, wherein both sides indulged in free fight. On the other hand, learned APP countered, the above submission on the ground that there is direct eyewitness account coupled with video shooting of the incident. Learned APP pointed to the statement of one labour namely, Gajanan Kuklare as well as Vajir Akbar Shaikh. On visiting their statement, it does seem that, when measurement was in progress on 26.06.2023, nine persons named in the statement came and started abusing, and thereafter, it is alleged that, when Bhikchand objected for the abuse, Dnyaneshwar uprooted the angle and handed it over to Bhanudas, i.e. present applicant, and he assaulted deceased on the head resulting into bleeding injury, and he

collapsing. The deceased seems to have died due to complications arising out of head injury. Other applicants are beneficiaries of bail by virtue of various orders passed by this Court taking into account the allegations against them. Therefore, as stated above, out of eight accused, seven are reported to be released on bail. Applicant is arrested and behind the bars since more than 1 ½ years i.e. since his arrest on 22.07.2023. Learned APP has not pointed out any immediate prospects about matter going for trial. Learned counsel for applicant has pointed out that as of today, even charge has not been framed. Taking the same into consideration and as applicant is behind bars since more than 1 ½ year and when nothing is shown to be further recovered or discovered at the instance of applicant, relief as prayed deserves to be granted. Hence, the following order :

ORDER

- (i) Application is allowed.
- (ii) Applicant Bhanudas S/o Fakirrao Ghitre be released on bail in connection with Crime No.0193 of 2023 registered at Shillegaon Police Station, District Aurangabad on executing Personal Bond of Rs.15,000/- with one surety in the like amount on following condition:
 - (a) Applicant shall not enter the village Raipur, Tq. Gangapur, District Aurangabad till conclusion of the trial.
 - (b) Applicant shall not tamper prosecution evidence.

**ABHAY S. WAGHWASE,
JUDGE**