



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

**BAIL APPLICATION NO. 37 OF 2025**

Dayanand S/o. Dnyanoba Jaybhaye,  
Age : 39 Years, Occu. : Agriculture,  
R/o. Bodhadi, Tq. Kinwat,  
Dist. Nanded.

**... Applicant**

**VERSUS**

The State of Maharashtra,  
Through Police Inspector,  
Police Station Kinwat,  
Tq. Kinwat, Dist. Nanded.

**... Respondent**

....  
Advocate for Applicant : Mr. Govind R. Ingole  
APP for Respondent-State : Mr. S.S. Dande  
....

**CORAM : ABHAY S. WAGHWASE, J.**

**Dated : 06<sup>th</sup> February 2025**

**ORDER :**

1. The applicant seeks enlargement on regular bail on account of his arrest in crime bearing No.0203 of 2024, registered at Kinwat Police Station, Dist. Nanded, for offences under Sections 103(1), 109 and 3(5) of the Bharatiya Nyaya Sanhita, 2023.

2. Learned counsel for the applicant pointed out that, the present applicant is arrested on 16.07.2024, with regard to

occurrence dated 13.07.2024, of which crime is registered on 14.07.2024. He further pointed out that, investigation is over and charge-sheet is already filed on 21.09.2024. That, four accused were booked, but three accused are already released. He further emphasized that, against all, there were similar allegations. He submitted that, FIR is against unknown persons and no T.I. parade is conducted. That, FIR is on hearsay information. There are allegations of used of axe and same is shown to be seized at the instance of accused Raju Gadekar and he is already beneficiary of bail. For all above reasons, he seeks grant of bail.

3. Learned APP opposed the bail application on the ground that, there is credible evidence of initial conspiracy and thereafter, occurrence. That, there is serious crime of Section 103(1) of BNS i.e. committing murder. He took this court through the statement of witness Sandhya Kendre as well as through the postmortem report and he submits that, it is a case of murder. That, deceased died due to injury to occipital part, which is vital part and thus, according to him, though charge-sheet is filed and other applicants are released on bail, considering the role of the applicant, he cannot claim parity. For above grounds, he seeks rejection of the application.

4. Perused the FIR at the instance of one Gayabai Mahadeo Kendre. She reported to the police on 14.07.2024 that, her deceased son i.e. Ram Mahadeo Kendre, was married to one Sandhya Kendre. However, on account of domestic quarrel between them, Sandhya had left his company and had been her parents place along with her children since last three months. She further reported that, on 13.07.2024, at around 09.30 to 10.30 p.m., her deceased son left the house informing about receiving call "*Bhauji*" and he went towards the field.

5. The informant claims that, after short while, she heard shouts and therefore, she ran there with stick and she found her son lying on the road and four persons were present there and she hit one of them with a stick. She further claims that, they were armed with axe and stone, but she reported that, she could not identify those persons from their faces and finally on such information, she lodged a report on 14.07.2024, against unknown persons, for committing murder of her son.

6. Papers show that, again on 16.08.2024, her statement is recorded, wherein she has given detailed narration and in her such subsequent statement, she has stated that, since one year, brother-in-

law of her deceased son namely Dayanand Jaybhaye i.e. present applicant had come to stay with her along with his wife. That, on 13.07.2024, there was no electricity since three to four days and it was dark outside. This time, she claims that, she saw four lighting shining from the mobile and one person giving call to her son. In spite of request not to go, her deceased son went and after half an hour, she claims to have heard his shouts and thereafter, she went there and saw that one person was sitting over her son and beating him and near said person, one was standing with axe and two were having stones. That, she was also beaten and therefore, she was lying there with her son and in the morning, she claims to have reported to one Asha Todkar.

7. Injury certificate of the informant is also placed on record, but it is of 19.08.2024. Occurrence is of dated 13.07.2024. Thus, it does emerge that, initially in the FIR, there are allegations of her son being beaten by four unknown persons whom she could not identify. Even in her subsequent statement recorded on 16.08.2024, she has not particularly named or identified any of the four persons.

8. Learned counsel for the applicant submits that, bail application was moved before learned Additional Sessions Judge,

Nanded by the present applicant and accused No.4 Raju Ramesh Gadekar vide Sessions Case No.203 of 2024 (Exh.29). That, learned Additional Sessions Judge, Nanded has partly allowed the application rejecting the present applicant's application, but granting bail to other applicant i.e. Raju Gadekar. Said order, apparently, is of 04.12.2024. Accused No.4 Nagesh Uttam Karad, also seems to have moved application for bail and his application also seems to be allowed by learned trial Judge on 24.10.2024. Likewise, bail application of accused No.2 Ganesh Manohar Musale, is also allowed by the learned trial judge on 24.10.2024.

9. Consequently, what is emerging is that, out of four persons, three, as pointed out, are already set at liberty by learned trial court. Therefore, ground of parity comes into picture. Now, charge-sheet is already said to be filed in September 2024 itself. Nothing is further shown to be recovered or discovered at his instance. The applicant is behind the bars since last more than six months. Practically, no purpose would be served to his further detention. Therefore, the relief claimed deserves to be granted. Hence, following order is passed.

**ORDER**

- i) The application is allowed.
- ii) Applicant Dayanand S/o. Dnyanoba Jaybhaye, be released on bail in connection with Crime No.0203 of 2024, registered with Kinwat Police Station, Dist. Nanded, on executing P.R. Bond of Rs.15,000/- (Rupees Fifteen Thousand Only) with one surety in the like amount.
- iii) The applicant shall not tamper prosecution evidence.
- iv) Bail before the trial court.

**[ABHAY S. WAGHWASE, J.]**

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