



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO. 131 OF 2025

Kailash @ Raju S/o Datta Shette
Age 27 years, Occupation : Agriculture,
R/o. Gortha, Taluka Umri, District Nanded. ... Applicant
[Accused]

Versus

The State of Maharashtra
Through Police Station, Umri,
Taluka Umri, District Nanded. ... Respondent

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Mr. G. D. Kale, Advocate for the Applicant.
Mr. N. D. Batule, APP for Respondent-State.

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CORAM : ABHAY S. WAGHWASE, J.

DATE : 23.04.2025

ORDER :

1. Present application is for grant of regular bail on account of applicant's arrest in crime no. 0097 of 2024 registered at Umri Police Station, District Nanded for offence punishable under Section 302 r/w 34 of IPC.

2. In support of relief, learned counsel pointed out that applicant is arrested on 29.02.2024 in connection with the occurrence dated 28.02.2024. He pointed out that only role attributed to present applicant is that he was accompanying main accused. There is no

overt act attributed to present applicant. It is the main accused who stabbed. There were disputes between main accused and deceased. Even the motorcycle which was allegedly used in the offence, is owned by main accused. That, in view of no role being attributed to present applicant, there is obviously no recovery or discovery to be made at his instance. Investigation is over and charge sheet is filed on 25.05.2024 itself. As there are no immediate prospects of matter going for trial, learned counsel seeks grant of bail.

3. Learned APP opposed on the ground that there is eye witness account. That, there was beating to deceased prior to accused no.1 stabbing. Moreover, applicant has criminal antecedents. Two crimes are registered against him, coupled with recovery under Section 27 of the Evidence Act. Learned APP also apprehends misuse of liberty.

4. Heard. Perused the FIR dated 28.02.2024 at the instance of Sapna Dhotre, who seems to be sister of deceased Raju Dhotre. She has reported that on 28.02.2024, information was received that her brother Raju Dhotre was beaten by Dnyaneshwar and his friend Raju Shette. Informant and her mother rushed and took injured brother to hospital. After admitting him, when he was declared dead, she lodged report.

5. Statement of one Kiran Kandewad is visited and he has stated that on 28.02.2024, when he and his mother were running the shop, his friend Raju Dhotre (deceased) came and slept on the cot while watching mobile phone. After short while, Dnyaneshwar and his brother Raju Shette (present applicant) came on motorcycle and purchased sachet. That, time, while accused Raju Shette was taking with this witness, accused Dnyaneshwar was having conversation with deceased Raju Dhotre, during which there was some heated exchange of words and after hurling abuses, it is alleged that, Dnyaneshwar whisked out knife from his waist and stabbed Raju and thereafter, both accused Dnyaneshwar and Raju Shette fled.

6. Therefore, eye witness account also is regarding stabbing by accused Dnyaneshwar and not present applicant. Papers show that there is recovery of knife at the instance of Dnyaneshwar (non-applicant). Investigation is over. Cause of death is shown to be “hemorrhagic shock due to stab injury to abdomen”. When no overt act is attributed and *prima facie* when applicant is not shown to be having any animosity or quarrel with deceased and he being not present near the main accused who stabbed, and when no recovery is shown to be made at his instance, 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 be released on bail in connection with Crime No. 0097 of 2024 registered at Umri Police Station, District Nanded, 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, witnesses and their families 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 Monday and Thursday till framing of charge and thereafter, shall regularly attend each and every effective date before the trial court.

[ABHAY S. WAGHWASE, J.]

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