



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO. 268 OF 2025

Kinkan Kamalsing Naik
Age: 25 years, Occu.: Labour,
R/o. : Near Hanuman Temple, Bhavar
Tq.Taloda, Dist.Nandurbar.Applicant

Versus

The State of Maharashtra
Through Police Station Officer,
Taloda Police Station, Taloda,
Dist.Nandurbar.Respondent

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Advocate for Applicant : Mr. Sushil Pushpendra Pandit
APP for Respondent : Ms.Vaishali S.Chaudhari

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CORAM : ABHAY S. WAGHWASE, J.

RESERVED ON : 05 MARCH, 2025

PRONOUNCED ON : 06 MARCH, 2025

ORDER :

1. Applicant seeks grant of regular bail on account of his arrest in crime no.0235 of 2024 registered with Taloda Police Station, Dist.Nandurbar, for offence under Section 109, 103(1) and 311 of the Bharatiya Nyaya Sanhita (BNS).

2. Pointing to the date of arrest as 06-08-2024, learned counsel submitted that initially crime was against unknown person and that

too for offence under Section 109 of the BNS. That subsequently, section 103 of the BSN came to be added. Learned counsel submitted that there is no reliable witness, who had seen the incident. That witness Charansing Naik, who is shown by prosecution as eye witness, is apparently a got up witness. Learned counsel submitted that case seems to be based on circumstantial evidence i.e. more particularly, applicant going towards house of deceased, but according to him, no one has seen applicant entering the hut or indulging in any overt act in hitting deceased. That, there are allegations that applicant sold nose ring of deceased to a jeweller, but his statement is also not recorded promptly. Therefore, except extra judicial confession to Charansing, there is no convincing evidence. That, now investigation is over and chargesheet is also filed in October, 2024. That, no further recovery is shown to be made and there being no chances of matter going for trial in near future, learned counsel seeks grant of bail.

3. Learned APP strongly opposed application on the ground that there is assault by means of axe, which is seized from the spot itself. That, nose ring of deceased was sold to a jeweller shortly after the incident and statement of jeweller is recorded. That, nose ring is

identified by the relatives of deceased. Therefore, there is strong incriminating material. Consequently, crime being serious in nature, learned APP opposed the bail application.

4. Heard. Perused the papers. FIR dated 03-08-2024 at the instance of Sakhubai Padvi is that on 02-08-2024 in the morning her husband went for work whereas she and her daughter Ranjana were at home. Informant went for work at 08:00 a.m. and returned at 10:00 a.m. That time, she found her daughter sleeping on the cot. Her daughter woke up but again went to sleep. Informant claims that thereafter, she went to Bank at Taloda at around 10:30 a.m. and returned by 01:00 p.m. That time, again she found her daughter sleeping on the cot and that, she tried to wake her up but she noticed blood oozing from her face. Therefore, she summoned others and they took her daughter to hospital where her daughter declared dead. Therefore, she lodged report against unknown person for committing murder of her daughter for unknown reason.

Present applicant is shown to be arrested on above report dated 03-08-2024 on 06-08-2024. Learned APP pointed out that there is statement of Charansing Naik. On visiting his statement, it is

emerging that he claims that on 02-08-2024, at around 10:00 a.m. he saw Kinkan Kamalsing Naik i.e. present applicant going towards Bhavar Shivar. Shortly, thereafter, this witness and Pintibai went to the hut of Anil Padvi and returned back to Khandsari. He claims that at around 06:00 p.m. present applicant met him and told that he was in need of money and therefore, he had been to hut in the field of Badshaha Kaka. There, daughter of such person was sleeping alone and because of financial crises, he took her nose ring and sold it to the jeweller. Thus, according to learned APP, there is extra judicial confession to this witness. However, said extra judicial confession inspite of being received on 03-08-2024, he has not reported about it to Police till 06-08-2024. He claims that out of fear, he had not reported such extra judicial confession to anyone. But when he called by Police for enquiry, he gave above statement alleging extra judicial confession given by present applicant. Similarly, there is no reporting by Pintibai also about extra judicial confession given by applicant. But it is pertinent to note that in the statements of both these persons, there is merely reference of a girl sleeping on the cot and applicant removing her nose ring and there is no extra judicial confession about assaulting deceased Ranjana. As reflected in the spot panchanama, axe was already lying at the spot. Therefore,

apparently case is primarily based on circumstantial evidence and secondly, information about extra judicial confession received by aforesaid persons, was apparently given to Police, not on their own but after being called by Police.

Be it so, now chargesheet is filed. Investigation is over. Nothing further is shown to be recovered from the applicant. There is nothing to indicate matter going for trial in near future and therefore, no purpose would be served by detaining applicant further.

Hence, the following order :

ORDER

- (i) Application is allowed.
- (ii) Applicant Kinkan Kamalsing Naik be released on bail in connection with Crime no.0235 of 2024 registered with Taloda Police Station, Dist.Nandurbar, on executing Personal Bond of Rs.15,000/- with one surety in the like amount.
- (iii) Applicant shall not tamper prosecution evidence.
- (iv) Applicant shall not enter into village Bhavar, Tq.Taloda, Dist.Nandurbar, till conclusion of trial.

(ABHAY S. WAGHWASE)
JUDGE