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

BAIL APPLICATION NO.224 OF 2025

Sajid S/o Aabedali Sayyed Gadeswar
Age: 48 years, Occupation : Labor,
R/o.Near akub Masjid,Gawandi Galli,
Ausa, Tq. Ausa, Dist. Latur.

... Applicant

Versus

1. The State of Maharashtra
Through Superintendent of Police
Dist. Latur

2. The Police Inspector,
Ausa Police Station,
Dist. Latur.

... Respondent

**WITH
CRIMINAL APPLICATION NO.565 OF 2025 IN BA/224/2025**

Najima Yadul Shaikh
Age: 28 years, Occ.: Household,
R/o. Halni, Tq. Ahmedpur,
Dist. Latur.
At Present near Primary School
Indira Nagar, Ausa, Tq. Ausa,
Dist. Latur

... Applicant
(Informant)

Versus

1. The State of Maharashtra
Through Police Station, Ausa,
Tq. Ausa, Dist. Latur.

2. Sajid S/o Aabedali Sayyed Gadeswar
Age: 48 years, Occupation : Labor,
R/o.Near akub Masjid,Gawandi Galli,
Ausa, Tq. Ausa, Dist. Latur

... Respondents

.....

Mr. Yogesh G. Birajdar, Advocate for Applicant
Mr. N.D. Batule, APP for Respondent – State
Mr. M.L. Dharashive, Advocate for Informant for assist to APP

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CORAM : ABHAY S. WAGHWASE, J.
RESERVED ON : 17 APRIL 2025
PRONOUNCED ON : 22 APRIL 2025

PER COURT :-

1. Applicant seeks enlargement on regular on account of his arrest in Crime No.0421 of 2024, registered with AUSA Police Station, District Latur for offences punishable under Sections 103(a), 15(a), 352 r/w Section 3(5) of the Bhartiya Nyaya Sanhita (BNS).

2. Criminal Application No.565 of 2025 is filed by the informant seeking permission to assist APP. For the reasons mentioned in the application, the applicant is permitted to assist APP. The application is accordingly disposed of.

3. Learned counsel for the applicant pointed out that applicant is arrested in above crime in October 2024 and he is behind the bars since then. That, applicant is shown to be accused No.2. That, though the case is of murder, case is based on circumstantial evidence, that too on alleged oral dying declaration. That, incident took place in the backdrop of money transaction of Rs.500/-. The allegations are that the deceased was beaten by stick. That, the alleged occurrence took place at

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around 4:00 p.m., and after the incident, the deceased went home and went to sleep, but did not wake up. Thereafter, sister was lodged the report. According to learned counsel, it is not a case of murder and it could be at the most a case of culpable homicide not amounting to murder. That, Investigation is over and charge-sheet is already filed on 17.12.2024. As there are no prospects of matter going for trial, and when no further recovery or discovery is shown to be made at the instance of applicant, learned counsel urges for grant of bail.

4. Learned APP opposed the application on the ground that the deceased died due to a head injury caused by the use of a stick. Learned APP took this Court through the postmortem report. He further pointed out that two witnesses namely, Afzal and Khadir have seen the occurrence. Therefore, it is not a case, as submitted, that there is no evidence. That, serious offence is committed, and though charge-sheet is filed, learned APP opposed for grant of bail. He also apprehends misuse of liberty.

5. Learned counsel for the informant also opposed the application on the ground that a serious offence has been committed. It is submitted that the incident resulted into death, and that stick was used to inflict blow on a vital part like head.

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6. Heard. Perused the papers. Informant Najma reported to the police that on 18.10.2024, her elder brother Vazir went out of the house in the morning, and he returned at 04:00 p.m. There was some abrasion on his left hand. On inquiry, he reported that, Sajid, Aslam and Awej intercepted him, and Aslam demanded money for drinking liquor. When her brother allegedly countered the question for demanding money, it is alleged that, he was initially abused and given kicks and fist blows. She further reported that, her brother informed that Sajid (present applicant) and Awej caught hold her brother and Aslam hit by means of stick on the head, as a result of which, he felt dizzy and giddy and fell down and managed to reach home, and thereafter, he went to sleep, but he did not wake up. When taken to the Hospital, he was examined and declared to be dead. Hence, the report.

7. On going through the postmortem report, it appears that, death is due to large subdural hematoma. However, final cause of death will be given after reports of chemical analysis and histopathological examination of viscera as viscera is preserved for chemical analysis and histopathological examination. Column No. 19 shows a hematoma on the scalp, more

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specifically in the temporoparietal area of the brain, while Column No. 17 indicates an abrasion on the elbow joint, , etc.

8. Learned counsel for the applicant submits that, there is no direct witness to the incident. Countering to the said submission, learned APP submits that there is an eyewitness account in the form of statements of Afzal and Khadir.

9. On visiting the statement of Khadir, he has reported about seeing quarrel going on and he has not narrated about actual occurrence of assault after allegedly being caught hold. Even Afzal, in his statement, stated that there was a quarrel and that Vazir and Aslam appeared to be under the influence of liquor. Therefore, he also does not specify about actual assault by stick. Deceased had come home at 04:00 p.m. and went to sleep, but did not wake up. Reason narrated in the FIR shows that, on account of demand of Rs.500/- incident had taken place. *Prima facie*, occurrence does not seem to be premeditated. Now investigation is over and charge-sheet is filed in December 2024, and what purpose would be achieved by further detention is not made known to this Court. The apprehension of misuse of liberty can be taken care of by imposing stringent conditions. Therefore, relief as prayed deserves to be granted. Hence the following order:

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ORDER

- (i) Application is allowed.
- (ii) Applicant be released on bail in connection with Crime No.0421 of 2024, registered with AUSA Police Station, District Latur on executing Personal Bond of Rs.15,000/- with one surety in the like amount on following conditions:
- [a] The applicant shall not tamper prosecution evidence.
- [b] 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 between 10:00 a.m. to 02:00 p.m. till committal of case and thereafter, shall regularly attend each and every effective date before the trial court.

**ABHAY S. WAGHWASE,
JUDGE**

S P Rane