



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO. 339 OF 2025

Jayesh s/o Magan Sutar
Arrested on 19.03.2024
Age : 31 years, Occupation : Service,
Resident of Murlimanohar Colony, Maloni,
Taluka Shahada, District Nandurbar,
Maharashtra.

... Applicant
[Orig. Accused No.4]

Versus

The State of Maharashtra
Through The Police Inspector/
Investigating Officer in Crime No. 229/24,
Shahada Police Station, Shahada,
Taluka Shahada, District Nandurbar.

... Respondent

**WITH
BAIL APPLICATION NO. 442 OF 2025**

Lucky Kishor Birare
Age 20 years, Occupation Education,
R/o Vajjali Road, Bhade, Taluka Shahada,
District Nandurbar.

... Applicant

Versus

The State of Maharashtra,
Through its Police Inspector,
Shahada Police Station,
District Nandurbar.

... Respondent

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Mr. A. D. Ostwal, Advocate for the Applicant in Bail Application No. 339 of 2025.

Mr. N. L. Chaudhari, Advocate for the Applicant in Bail Application No. 442 of 2025.

Mr. C. V. Bhadane, APP for Respondent-State in both applications.

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CORAM : ABHAY S. WAGHWASE, J.

Reserved on : 04.04.2025

Pronounced on : 08.04.2025

ORDER :

1. Instant applications are for enlargement of applicants on regular bail on account of their arrest in crime no. 229 of 2024 registered at Shahada Police Station, District Nandurbar for offences punishable under Sections 201 and 302 of IPC.

2. Pointing to the date of arrest of the applicants as 19.03.2024, learned counsel Mr. Ostwal submitted that apparently there is false implication. FIR is against unknown person. There is no nexus between present applicant and deceased. Eight persons are arraigned as accused. Some are granted bail. Case is based entirely on circumstantial evidence. Cause of death is said to be head injury. Present applicant is shown as accused no.4. He pointed out that case developed by investigating machinery is of contract killing, but there is no evidence in that direction. He pointed out that investigating machinery claims that accused no.1 gave contract, but he is granted bail. That, even it is emerging from entire investigation that it is accused no.5 who called deceased. Therefore, virtually no role is attributed to present applicant. Merely because applicant was seen

passing through the scene of occurrence, that too in CCTV footage, he is implicated. Learned counsel took this Court through the postmortem report and column no.17 and he further submits that going by the nature and number of injuries, it is not possible for eight persons to commit offence. He took this Court through the statement of son of deceased and submitted that one day prior, his statement was recorded. Even statement of another witness is recorded and they do not name present applicant. Thus, according to him, evidence as against present applicant is weak and there is nothing incriminating against him. That, applicant is behind bars since almost a year. Charge sheet is already filed in June 2024 itself. Therefore, coupled with the ground of parity and charge not being framed in spite of charge sheet being filed long back, he seeks enlargement on account of delayed trial and long pre trial incarceration.

3. Learned counsel Mr. Chaudhari, who is appearing for the applicant in Bail Application No. 442 of 2025, adopts above arguments.

4. While opposing the bail applications, learned APP submitted that both applicants are appearing in CCTV footages. Learned APP took this Court through the transcript of CCTV footage and points out

that applicants are seen traveling with the dead body. There are blood stains in the car in which they travelled with the dead body. Therefore, according to learned APP, there is strong incriminating circumstance.

5. Heard. Perused the FIR dated 17.03.2024 at the instance of one Bhavna Marathe. She has reported that she works at Nashik. Her father works as Conductor at Shahada. On 14.03.2024, she got call from her mother informing her that her father left for market, but has not returned and therefore she also came to Shahada. After searching for her father, missing report was lodged. On 16.03.2024, she claims that, her brother got phone call from police about dead body lying in burnt condition at Nanded - Tarhavad road and her brother identified it to be of her father. Therefore she lodged report against unknown person for committing murder of her father.

6. In above crime, applicants are arrested on 19.03.2024 along with six persons. Both applicants are arraigned as accused nos. 3 and 4 respectively. On visiting the summary of the charge sheet, it is emerging that investigating machinery claims that accused no.1 is husband of informant. He and informant had performed love marriage, but on account of differences and discord, they were

residing separately. It is further alleged that accused no.1 lost his father and it was his belief that because of trouble given by informant-wife, his father died, and therefore he threatened to take revenge and consequently, he hired accused persons by giving contract and assuring sum of Rs.3,00,000/-. Conspiracy was hatched and, it is further claimed that, on 14.03.2024, juvenile accused no.5 called deceased to Jai Shri Mahakal Tea and Pan stall and there, accused nos. 2, 3, 4, 7, 8 and juvenile accused nos. 5 and 6 assaulted by means of iron weapon and committed murder of deceased. Thereafter, dead body was taken by accused nos. 2, 3, 4, 7, 8 and juvenile accused nos. 5 and 6 to Lonkheda Choufuli and then, after pouring kerosene, dead body was set on fire, i.e. to cause disappearance of the evidence. Prosecution claims that accused nos. 7 and 8 and juvenile accused no.6 brought petrol from petrol pump and then dead body was taken in vehicle MH-43-D-8517 and thereafter, accused nos. 2, 3, 4, 5 and 6 took dead body to Nanded-Tarhavad road and beneath the bridge. It is further claimed by prosecution that juvenile accused no.5 had taken video shooting of the journey while transporting dead body and while it was set on fire and as decided, accused no.1 paid accused nos. 2, 3, 4, 5 and 6 Rs.25,000/- and Rs.2,25,000/- respectively in two installments.

7. Thus, prosecution claims that there is CCTV footage of transporting dead body. Present applicants are seen in the said vehicle. However, learned APP, on court query, submitted that whatever footage taken is from the mobile of one of the juvenile and as regards the arrival of applicants at tea stall, also there is CCTV footage. However, tea stall is a public place which is open for all. On further court query as to whether there was any CDR to demonstrate that deceased was called at said tea stall when he was in market, there is nothing pointed out in that regard. Moreover, learned counsel for applicants have invited attention of the court to the very statement of son of deceased which shows that on the night of 13.03.2024, he had accompanied his father to join for dinner with accused against whom there are allegations. Further, statements of informant who lodged report against unknown person, is subsequently recorded on 18.03.2024 and 20.03.2024 wherein she has reported about alleged threats, which are apparently not stated by her in her FIR dated 17.03.2024. Taking such material into consideration, coupled with the fact that in spite of charge sheet being filed in June 2024, charge is not framed, as pointed out, process of trial is apparently uncertain. Resultantly, relief as prayed deserves to be granted. Hence, I proceed to pass the following order:

ORDER

- I. Both the applications are allowed.
- II. Applicants be released on bail in connection with Crime No. 229 of 2024 registered at Shahada Police Station, District Nandurbar, on executing Personal Bond of Rs. 15,000/- each, with one surety by each in the like amount, on the following conditions:
- [a] The applicants shall not tamper prosecution evidence.
- [b] The applicants shall not enter the vicinity where informant and her family members reside, till conclusion of trial.
- [c] The applicants shall not leave the area of jurisdiction of the concerned police station till conclusion of trial.
- [d] The applicants 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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