



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO. 335 OF 2025

Rasulkhan Yunuskhan Pathan
Age 44 years, Occ. Business
R/o. Indira Gandhi Nagar, Parbhani
Tq. and district Parbhani

...Petitioner

Versus

1. The State of Maharashtra
Through the Secretary
Home department,
Mantralaya, Mumbai-32
2. The Superintendent of Police
Nanded, district Nanded
3. The Superintendent of Police,
Parbhani, District Parbhani
4. Officer Incharge,
Police Station Kotwali, Parbhani
District Parbhani
5. Officer Incharge
Police Station Bhokar
District Nanded
6. Police Inspector,
Local Crime Branch, Nanded
District Nanded
7. Officer Incharge
Police Station Railway, Nanded
District Nanded

...Respondents

.....
Mr. S.J. Salunke, Advocate for the petitioners
Mrs. P.R. Bharaswadkar, A.P.P. for the respondents
.....

**CORAM : SMT. VIBHA KANKANWADI AND
SANJAY A. DESHMUKH, JJ.**

DATED : 5th MAY, 2025

O R D E R (PER SANJAY A. DESHMUKH, J.) :-

1. This writ petition is filed for the following main reliefs:-

“ C] Be pleased to issue writ of mandamus or any other writ or orders in the like nature, directing the respondent no. 1, 2 & 6 for addition of Sections 302, 363, 364, 120-B, 34 of Indian Penal Code, 1860 in Crime No.193/2024 dated 30/06/2024 registered with Police Station Bhokar, Dist. Nanded and investigate the same.

D] Respondent no.2 Superintendent of Police, Nanded may kindly be directed to supervise and monitor investigation of Crime No.193/2024 dated 30/06/2024 registered with Police Station Bhokar, Dist. Nanded.”

2. It is alleged by the informant that Yusufkhan was familiar with Shahnaz Begum. He used to visit her at Bhokar. On 18.6.2024, at about 5.00 a.m. Yusufkhan was beaten by fist and kick blows by (1) Shaikh Amir Shaikh Waqar, (2) Shaikh Sohail Shaikh Waqar, (3) Shaikh Kaif and (4) Shahnaz Begum Shaikh Waqar. He sustained injuries to his face. He was forcibly dashed to the wall. Therefore, he sustained injuries to his forehead. Thereafter he went from that place and died.

3. According to the petitioner, investigation was not properly carried out. Therefore, he prayed to add Sections 302, 363, 364, 120-B, 34 of the Indian Penal Code, 1860 (for short "the I.P.C.) and investigate the matter.

4. We have heard learned advocates for both the sides at length. By order dated 08.04.2025, this Court directed the learned A.P.P. to get papers of enquiry of A.D. No. 55 of 2024 conducted by the Railway police, Nanded. Accordingly, the papers of investigation of A.D. No. 55 of 2024, are produced today before us.

5. Learned advocate for the petitioner submits that deceased Yusufkhan was assaulted by (1) Shaikh Amir Shaikh Waqar, (2) Shaikh Sohel Shaikh Waqar, (3) Shaikh Kaif and (4) Shahnaj Begum Shaikh Waqar and therefore, he sustained the serious injuries and he was actually murdered. Therefore, Sections 302, 363, 364, 120-B, 34 of I.P.C. are to be invoked. He prayed to allow the writ petition.

6. Learned A.P.P. for the respondents submitted that during investigation of A.D. it was revealed that the dead body of Yusufkhan was found on the Railway track. She pointed out the photographs of the dead body and the papers of investigation also. There is no eye

witness to the incident. Column No.17 of the post mortem report shows the following injuries on the person of deceased Yusufkhan:-

- i) Traumatic injury to left side of skull causing fracture of skull,
- ii) Traumatic injury to right humerus causing fracture of right humerus.
- iii) Traumatic injury to right femur causing fracture of right femur.
- iv) Traumatic injury to left femur causing fracture of left femur.
- v) Multiple lacerated wound around left axilla.
- vi) Multiple abrasion over right lumbar region.

7. The cause of death of Yusufkhan is due to hemorrhage shock due to multiple injuries.

8. Learned A.P.P. for the respondents submitted that there is no evidence to invoke the Section 302 and other sections of the I.P.C. as prayed by the petitioner in the said crime.

9. We have perused all the documents, particularly the post mortem report and statements of witnesses. It appears that no such injury is pointed out, by which Yusufkhan might have died to infer that

it is a case of murder.

10. On perusal of the papers of investigation of A.D. No.55 of 2024 which were produced as per the direction of this Court, we do not find material evidence like eye witnesses etc. to establish that Yusufkhan was assaulted and sustained injuries and because of such injuries, he died. In such circumstances, when the informant has received such information from other sources and dead body was found on the Railway track, and the accidental death was registered under Section 174 of the Cr.P.C. it cannot be accepted that it is a case of murder of Yusufkhan to invoke Sections 302, 363, 364, 120-B of the IPC as prayed by the petitioner.

11. Considering all these aspects, we are of the view that the prayer clauses "C" and "D" of the petition cannot be allowed. The writ petition deserves to be dismissed. Hence, the following order:-

O R D E R

Writ petition stands dismissed.

(SANJAY A. DESHMUKH, J.)

(SMT. VIBHA KANKANWADI, J.)

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