



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO. 357 OF 2025

Mahadu @ Mahadev Uttam Devkate
Age : 42 years, Occupation : Agriculture,
R/o. Buktarwadi,
Taluka Sonpeth, District Parbhani.

... Applicant
[Accused No.1]

Versus

1. The State of Maharashtra,
Through Officer In Charge,
Police Station Sonpeth,
District Parbhani.

2. The Superintendent of Police,
Parbhani, District Parbhani.

... Respondents

**WITH
CRIMINAL APPLICATION NO. 990 OF 2025
IN BAIL APPLICATION NO. 357 OF 2025**

Shriram S/o Raghunath Chamnar,
Age 40 years, Occupation Agriculture,
R/o Buktarwadi, Taluka Sonpet,
District Parbhani.

... Applicant
[Maternal uncle of Informant]

versus

1. The State of Maharashtra,
Through Officer In Charge,
Police Station Sonpeth,
Taluka Sonpeth, District Parbhani.

2. Mahadu @ Mahadev Uttam Devkate
Age : 46 years, Occupation : Agriculture,
R/o. Sadola, Taluka Majalgaon,
District Beed.

... Respondents
[R.No.2 is Original Accused]

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Mr. S. J. Salunke, Advocate for the Applicant in Bail Application No. 357 of 2025 and Respondent No.2 in Criminal Application No. 990 of 2025.

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

Mr. Amol Ratan Gaikwad, Advocate for the Applicant in Criminal Application No. 990 of 2025.

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CORAM : ABHAY S. WAGHWASE, J.

Reserved on : 18.03.2025

Pronounced on : 20.03.2025

ORDER :

1. Criminal Application No. 990 of 2025 is filed by the uncle of informant seeking permission to assist APP in resisting the Bail Application. This application was not on board today. However, upon mentioning, it is taken on board. In view of reasons mentioned in Criminal Application No. 990 of 2025, the same is allowed in terms of prayer clause [B] and disposed off accordingly.

2. Applicant in Bail Application No. 357 of 2025 seeks grant of regular bail on account of his arrest in crime no. 0272 of 2024 registered at Sonpeth Police Station, District Parbhani for offence punishable under Sections 103(1) r/w 3(5) of the Bharatiya Nyaya Sanhita (BNS).

3. Learned counsel for the applicant submits that applicant and deceased are husband and wife. Their marriage is 15 to 16 years old. That, unfortunately daughter of applicant herself has lodged report levelling false allegations, holding father responsible for death of mother. Learned counsel submitted that deceased died due to drowning in well. According to him, there is possibility of accidental fall and drowning. That, on information given by daughter that there was some minor quarrel in the house, suspicion has been raised and applicant is held responsible along with his nephew, who is shown to be child in conflict with law.

4. Learned counsel emphasized that there is no direct evidence. That, nobody has seen applicant and deceased in the company of each other on the day on which she met drowning death. That, informant herself had been to school. Therefore, there is no direct evidence and entire case is based on circumstantial evidence. The circumstance like last seen together seems to have been pressed into service, however, according to learned counsel, such circumstance being primarily weak and there being no evidence about applicant to be indulging in any quarrel or to be in the company of deceased, said circumstance also fails.

5. learned counsel further pointed to the statement of witnesses, including informant-minor and according to him, her information in FIR does not tally with the statement given by her before learned Magistrate under Section 183 of Bharatiya Nagarik Suraksha Sanhita (BNSS). Lastly, he submitted that applicant is behind bars since September 2024. Now investigation is over and charge sheet having been filed in December 2024 and further, when no recovery or discovery is to be made, learned counsel seeks grant of bail on any suitable condition deemed fit by this Court.

6. Learned APP, while opposing the bail application, submitted that it is true that daughter of applicant and deceased has herself set law into motion but, according to him, the girl is witness to the repeated physical cruelty meted out to her deceased mother by present applicant. That, on the day of incident also, she had witnessed quarrel and since previously, her father was giving threats to kill for withdrawing case lodged by mother against him. That, she was party to the instances of beating as well as threats. Learned APP pointed out that on the very day when deceased died, father and child in conflict with law were both searching for deceased and when informant herself had seen her father in the vicinity of the well where her mother had taken she-goat for grazing, he also directed them to leave

and when mother did not return, occurrence was reported to aunt and that, applicant himself has suggested looking for deceased near well. Thus, according to learned APP, applicant knew as he was behind the death and that is what investigation revealed. Therefore, there being incriminating material and every possibility of tampering evidence by misuse of liberty, learned APP opposes bail application.

7. Learned counsel who is permitted to assist learned APP, also strongly opposed on above grounds and he took this Court through the photographs of previous physical cruelty to deceased. He further pointed out that now charge is already framed and therefore, trial would commence and even conclude soon. For all above reasons, he too opposes bail application.

8. Heard. Perused the FIR at the instance of Rutuja, who is apparently 15 years of age and has two siblings aged 10 years and 12 years respectively. She has reported that, when her parents had been to Pathari for sugarcane cutting, at that time, her father beat her mother and caused fracture to her nose, as a result of which her mother had lodged report with Pathari police. According to her, on 14.09.2024 around 8.00 a.m., when she was proceeding to school, her father was quarreling with her mother and asking her to

withdraw the case, but her deceased mother was refusing, saying that he would again beat her. She claims that thereafter, around 2.30 p.m., when she returned back, she found her father and paternal aunt's son, namely, Rushikesh coming to inquire about whereabouts of her mother and thereafter they both hurriedly left the house and went towards their field. Informant claims that as suspicion arose, she, her sister and brother went towards the field and at that time, their father asked them to return home. Accordingly, they came back. Thereafter their mother did not return with the she-goat with which she had left. Therefore, she went to her aunt Saraswati and informed her and spent night there. In the morning, again search was conducted and finally, her father suggested looking for her mother near the well and her mother was found in the well in drowned and dead condition. Therefore, on above report of daughter, applicant-father was arrested.

9. Informant is a child witness and moreover a star witness. She has narrated the conduct of her father with her mother, including threats being issued. She has categorically stated what happened on the day of incident in the morning in the house, and about conduct of her father and child in conflict with law in the afternoon. She has even reported about seeing her father near the field and asking

children to return home and thereafter her mother did not return alive. Therefore, *prima facie* there is material suggesting applicant to be in proximity with deceased at crucial time.

10. Learned counsel for the applicant has submitted that there is variance in the contents of FIR and the statement under Section 183 of BNSS. This aspect cannot be tested at this stage. As pointed out, there is consistent conduct of applicant's cruelty, and even on the day of incident it being continued and inflicted. Learned APP has pointed out that *sari* was found to be gagged in the mouth while dead body was floating in the water. It is thus an additional circumstance suggesting something foul being done. Therefore, considering the above material, this Court is not inclined to grant relief. Hence, following order :

ORDER

The application is dismissed.

[ABHAY S. WAGHWASE, J.]

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