



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

913 BAIL APPLICATION NO. 558 OF 2025

KISHOR RAMESH BARDE

VERSUS

THE STATE OF MAHARASHTRA

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Advocate for Applicant : Mr. Satej S Jadhav

APP for Respondent/State: Mr. A. S. Mantri

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CORAM : ARUN R. PEDNEKER, J.

DATE : 19.08.2025

P.C. :

1] Heard learned counsel for the applicant and the learned APP for the respondent-State.

2] The applicant is seeking bail as he was arrested on 04.11.2024 in connection with Crime No.0530/2024, dated 02.11.2024, registered with Gangapur Police Station, District Chhatrapati Sambhajinagar (Gramin), for the offences punishable under Sections 103, 238, 61(2)(a), 3(5) of the Bharatiya Nyaya Sanhita, 2023.

3] The applicant herein is accused no.2. It is the case of the prosecution that on 31.10.2024, accused no.1 being the boyfriend of accused no.3 had taken the deceased on a motorbike and made him consume liquor and, thereafter, eliminated the deceased. The purpose to eliminate the deceased was that accused no.1 and accused

no.3 were in love relations and faced resistance of marriage from the father of accused no.3, who is allegedly a local goon. Accused no.1 and accused no.3 hatched a plan to eliminate a person identical to accused no.1 and to implicate the father of accused no.3 in the murder. The idea apparently was that once the father of accused no.3 is implicated in the offence and is taken into custody accused nos.1 and 3 would be free to fulfill their desire of matrimony. It is stated that father of accused no.3 was a difficult person deal with and, as such, accused nos.1 and 3 has made conspiracy to eliminate the boy, who may be similar in appearance to accused no.1 and show him as accused no.1 and implicate the father of accused no.3. In pursuance of the conspiracy by accused no.1 and 3, it is stated that accused no.1 with the aid of accused no.2 (applicant), who is the friend of accused no.1, took away the deceased, who is the boy of 17 years, on 31.10.2024, at 10:00 p.m. on the pretext that they have to go to drive the tractor of sand excavation. The victim was taken by accused no.1 in presence of the father and mother of the deceased. It is stated that accused no.1 along with the victim and one more person; in all three persons had visited Hotel Indiana, there two persons entered the hotel for the purpose of purchasing the liquor and one person was standing out. Thereafter, accused no.1 with the aid of other person apparently the applicant has eliminated the deceased and, thereafter, by taking petrol from the bike of the present

applicant poured it on the face of the deceased and burnt it, so as to suppress his identity. The identity card of accused no.1 was placed in the pocket of the deceased and clothes were also changed so as to make it appear that accused no.1 is killed by some unknown persons. It is the case of the prosecution that accused no.1 took aid of the present applicant – accused no.2 to eliminate the deceased and, thereafter, destroyed the evidence. However, in charge-sheet the case of the prosecution is restricted to the extent of destroying the evidence of crime.

4] The learned counsel appearing for the applicant submits that the hotel owner was subjected to TI parade. However, he has positively identified only accused no.1 and failed to identify the present applicant - accused no.2. As such, he submits that there is no clear evidence of indicating that the present applicant has aided accused no.1 or was present with accused no.1, while the deceased was taken in the night on 31.10.2024. There is no evidence that the applicant was last seen in the company of the deceased and accused no.1 in the night of 31.10.2024.

5] Per contra, the learned APP submits that there are two important factors implicating the applicant. She submits that accused nos.1 and 2 – present applicant are present in the bear bar, where both had taken liquor and consumed the same. She further submits that the brother of

accused no.1 has identified the present applicant as one of the person present in the Navnirman Hotel and had consumed alcohol with accused no.1. She further submits that the bike which was used to take the deceased belongs to the present applicant.

6] In response to the submissions made by the learned APP, the learned counsel for the applicant submits that the evidence of CCTV footage that accused no.1 is with the present applicant prior in point of time i.e. before taking away the deceased from his house. They were seen in the CCTV footage of Navnirman Hotel and consumed alcohol. There is no evidence thereafter that the applicant is in company of accused no.1. The deceased was taken from his residence by accused no.1 and that the applicant was not in company of the deceased at any point of time thereafter. There is no evidence that the bike used to take the deceased belongs to the applicant. There is no identification that the deceased was taken on the bike of the present applicant. He submits that, considering the evidence there is no evidence connecting the applicant to the crime. He submits that the applicant is arrested on 04.11.2024 and that bail may be granted to the applicant. He also submits that the case of the prosecution as put in charge-sheet at the highest is that the applicant has helped accused no.1 in destroying the evidence and not in eliminating the deceased; even considering the case of the prosecution as it is, from the

evidence, the case against the applicant is only of destruction of evidence and, as such, bail may be granted to the applicant.

7] Considering the above submissions of the learned counsel, prima facie, there is no evidence to show that the applicant was last seen in company of the deceased. The Hotel owner has only identified accused no.1 and has failed to identify the applicant as the person accompanying the deceased and accused no.1. So also, there is no evidence that the applicant's bike was used for the purpose of taking the deceased. There is no material to show that there is any recovery at the instance of the applicant as regards the evidence connecting the applicant with the crime. So also, case in the charge-sheet against the applicant is only to the extent of destroy the evidence of crime and not to eliminate the deceased.

8] In view of the above, the application is allowed in the following terms :

a] The applicant shall be released on bail in connection with Crime No.0530/2024, dated 02.11.2024, registered with Gangapur Police Station, District Chhatrapati Sambhajanagar (Gramin), for the offences punishable under Sections 103, 238, 61(2) (a), 3(5) of the Bharatiya Nyaya Sanhita, 2023, on

furnishing PR bond of Rs.20,000/- with one or two sureties in the like amount to the satisfaction of the trial Court.

b] The applicant, upon being released on bail, shall not contact the informant, in any manner whatsoever, during the pendency of the trial.

c] The applicant shall co-operate with the trial Court and he shall attend each and every date, unless exempted by the trial Court.

d] The applicant shall not tamper with the evidence of the prosecution and he shall not influence the informant, witnesses and other persons concerned with the case.

e] The applicant, upon being released on bail, shall place on record of the trial Court the details of his Contact Number and residential address with updates in case of any change.

9] Needless to say, in case of violation of any of the aforesaid conditions, the bail granted to the applicant shall be liable to be cancelled.

10] It is also clarified that the observations made in this order are limited to the disposal of the present bail application. The concerned Court shall proceed further in the matter without being influenced by the observations made hereinabove.

11] The application stands disposed of.

[ARUN R. PEDNEKER]
JUDGE

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