



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

944 BAIL APPLICATION NO. 468 OF 2025

1. MANOJ HARIKISHAN SHELAKE
2. DAYANAND SUKHDEV SHINDE

VERSUS

THE STATE OF MAHARASHTRA

...
WITH

...
**CRIMINAL APPLICATION NO. 1243 OF 2025
IN BA/468/2025**

...
Advocate for Applicant : Mr. Satej S Jadhav
APP for Respondent/State: Ms. P. V. Diggikar
Advocate for assist to PP : Mr. R. V.Gore

...
CORAM : ARUN R. PEDNEKER, J.

DATE : 17.06.2025

P.C. :

1] Criminal Application No.1243 of 2025 for assist to public prosecutor is allowed.

2] Heard learned counsel for the applicants, learned APP for the respondent-State and learned counsel for the assist to public prosecutor.

3] The applicants are seeking bail as Applicant No.1 / Accused No.3 – Manoj Harikishan Shelake and Applicant No.2 / Accused No.5 – Dayanand Sukhdev Shinde were arrested on 10.09.2024 and 11.09.2024 respectively in connection with Crime No.0581/2024, dated 10.09.2024,

registered with Taluka Jalna Police Station, District Jalna, for the offences punishable under Sections 103(1), 189(2), 190, 191(2), 193(3), 115(2), 118(1), 352, 351(2) of the Bharatiya Nyaya Sanhita, 2023.

4] The case of the prosecution is that on 09.09.2024 at about 09:30 p.m. the deceased Hafij went to Hotel Chiranjivi, where he consumed liquor for some time and, thereafter, he had gone to the hotel room.

It is the case of the prosecution that the wife of accused no.1 was having affair with the deceased Hafij and that the deceased had called her to the lodge by sending her a auto rikshaw, as she was not responding to the phone calls and messages of the deceased.

It is stated by Rani (wife of accused no.1) that she was having relations with the deceased for last 2 ½ year as the accused no.1 was having affair with some other lady. At the time of incident, there was festival of Ganpati and Mahalaxmi and at that time her son (accused no.2) was visiting her. The son (accused no.2) was taking education out of station. At around 05:00 p.m. Rani received a call from the deceased expressing his desire to meet her at her place. However, she had asked the deceased not to come to house as her son was in the house. When the deceased insisted to meet her, she took the auto rikshaw send by the deceased and went to meet the deceased at around 09:00 p.m. While she was taking auto rikshaw, she was seen by

the present applicant no.2 / accused no.5 – Dayanand. Immediately thereafter, Accused no.1 / Husband of Rani, Accused No.2 / Son, the present applicants and one another person total 5 persons reached the hotel. Thereafter, they inquired with the auto rikshaw driver as to where the Rani is. Initially the auto rikshaw driver avoided to answer and, thereafter, on insistence and assault by all the accused he informed that she is in the room upstairs i.e. Room No.15 of the hotel. Thereafter, all 5 accused went upstairs in search of wife of accused no.1 and while going up 3 of the accused including accused no.3 / applicant no.1, picked up weapons i.e. iron rod, sickle as were available in the Hotel. It is stated that there was knock on the door, as such, when the door of the Hotel room was opened, accused no.2 entered inside abusing the deceased. It is stated by Rani that the deceased first assaulted her son (accused no.2) with akodi (iron hook) and thereafter her son assaulted the accused with sickle. While she tried to intervene the applicant no.1 i.e. accused no.3 caught her hairs and assaulted her with iron pipe. Thereafter, she freed herself from accused no.3 and went downstairs followed by accused no.3 and her son. Thereafter, her son came down and later while travelling with her on the motorcycle accused no.2 informed her that they (accused) have killed the deceased. Accordingly, the FIR is lodged and all the accused were arrested immediately thereafter on 10.09.2024 and 11.09.2024 and after investigation charge-sheet in the matter is filed.

5] The case of the prosecution as can be seen from the charge-sheet is that, when the accused reached the hotel they have assaulted the auto rikshaw driver Rafiq and, thereafter, they have taken weapons which were available in the hotel i.e. iron rod, Koyta (sickle) and tikas from the store room and they went to Room No.15 which is on first floor and that they have assaulted the deceased. As such, all the accused are charged for the above referred offence.

6] The learned counsel for the applicants has taken me through the statements of witnesses i.e. Rani Shelke and the statement of the hotel owner and, thereafter, the CCTV footage. He contends that the applicants were not holding any weapon, when they reached the hotel as such there was no intention to assault or kill the deceased. As far as applicant no.1 / accused no.3 is concerned, it is stated that when the deceased assaulted the son of Rani, the applicant no.1 / Accused no.3 has caught hold of the lady and brought her out. He submits that as regards applicant no.1 / accused no.3 is concerned, there is absolutely no evidence that he has assaulted the deceased. He submits that, prima facie, from the evidence on record it would be said that applicant no.1 / accused no.3 was holding iron rod by which he has assaulted his sister-in-law (Rani). As regards applicant no.2 / accused no.5 is concerned, he submits that it is not stated anywhere that he entered the room with a weapon. The learned counsel also submits that

the evidence on record prima facie would indicate that the incident had happened in the spur of the moment. When accused no.2 had seen Rani with the deceased in the hotel room and he was possibly agitated. However, the first assault is by the deceased on accused no.2, as such, in defence, the accused, who were holding the weapons have possibly assaulted the deceased. He submits that it cannot be said that the applicants were having intention to kill the deceased. He also submits that the applicant no.1 / accused no.3 is nowhere connected as far as assault on the deceased is concerned. In so far as assault on Rani is concerned, that she is the sister-in-law of applicant no.1 / accused no.3 and that there are minor injuries suffered by her and that he is in custody from 10.09.2024 and that the charge-sheet in the matter is filed. He submits that applicant no.2 / accused no.5 is not seen in the CCTV footage holding any weapon. There is no evidence that he has assaulted the deceased.

7] Per contra, the learned APP submits that the star witness is Rani herself. She has also relied upon the statement of the auto rikshaw driver. However, she has not disputed one aspect of the matter that the weapons are taken from the hotel itself. She submits that Rani in her statement has stated that she was having affair with the deceased for last 2 ½ year and when she was alone the deceased used to come to her place to meet her and that

fifteen days prior to incident she was not picking up phone calls from the deceased, due to which the deceased had asked her to immediately meet him. She also stated that on 06.09.2024, her son had been to her place for Ganpati and Mahalaxmi festival and that she has received a phone call from the deceased at about 05:00 p.m. that he will come home to meet her. At that time she had told the deceased that her son had come for festival and that the deceased should not come home to meet her. Thereafter, the deceased had sent an auto rikshaw to Rani's house so that she could come in the auto rikshaw and meet him. When she was taking auto rikshaw from her home to the hotel, applicant no.2 / accused no.5 had seen her. Thereafter, when she reached the hotel and entered the hotel room where the deceased was staying it is stated that somebody knocked the door and when the deceased had opened the door her son entered in the room with weapon vila (sickle) and abused the deceased. Behind him was her husband having Katar and applicant no.1 was holding iron pipe and others entered without any weapon. When they entered in the room the deceased assaulted her son with akodi (iron hook) at that time her son hit back on the deceased with vila (sickle) on his head. It is further stated that she tried to hold her son at that time applicant no.1 / accused no.3, who is the brother-in-law of Rani caught hold of her hairs and dragged her and assaulted Rani by iron pipe. Thereafter, she managed to escape herself and went down.

She was followed by applicant no.1 / accused no.3 and her son. It is also stated that her son informed her to stop otherwise he would kill himself. Thereafter, she went on motorcycle with her son and it is stated that on the way her son informed her that they have killed the deceased.

8] The Postmortem report indicates that there are approximately major six injuries and that case of death is also indicated as under:

“..due to CRA due to haemorrhagic shock due to multiple penetrating injuries with head injury however viscera is preserved for C.A.”

9] The learned APP has also relies upon the statement of the auto rikshaw driver, who has stated that when he informed the accused that she is in the room at first floor that son of Rani / accused no.2 – Yash, Daya - accused no.5, Manoj accused no.3 told to accused no.1 – Sanjay that leave this auto rikshaw driver now, we will finish Hafij and then they went upstairs.

10] The learned counsel for assist to public prosecutor also pointed out statement of Chaitanya Ubale and Dhananjay Raut. Chaitanya Ubale stated that he has dropped the accused no.4 at the place of the incident i.e. Chiranjiv Hotel on motorcycle and later on he came to know that he had dropped him so that he could assault the deceased and he had seen the all the accused had assaulted

the auto rikshaw driver.

11] The learned APP, so also, the learned counsel for the assist to public prosecutor submits that this is a pre-meditated murder and that the accused were aware that the wife of accused no.1 was having affair with the deceased and when applicant no.2 / accused no.5 saw the lady going in the auto rikshaw they followed her to the hotel and, thereafter, they have assaulted killed the deceased and, as such, this is a clear offence of murder and that the applicants in such a grievous matter are not entitled for bail.

12] Considered the rival submissions. Star witness of the assault is Rani. Rani has stated that when she reached the hotel room within a short time there was knock at the door and on opening the door her son - accused no.2 - Yash came and used obscene language to the deceased. The deceased first assaulted accused no.2 – son of Rani with Akodi (iron hook). Thereafter, accused no.2 assaulted the deceased with sickle. Thereafter, applicant no.1 / accused no.3 caught hold of her hairs and dragged her and also assaulted her. Considering these aspects of the matter, we cannot at this moment say that all the accused who had reached the hotel without any weapon in search of Rani, wife of accused no.1 had gone to the hotel to kill the deceased. The weapons were collected from the Hotel as

were available. After the initial assault by the deceased on accused no.2, there is assault by accused no.2 using sickle on the head of the deceased to that extent Rani has seen the assault. However, after releasing herself from applicant no.1, she came down, as such, there is no further eye witness as to how the assault has further progressed. As regards applicant no.1 / accused no.3 is concerned, it cannot be said from the evidence on record that he has assaulted the deceased. He assaulted on the lady and she has suffered minor injuries. He is in custody from 10.09.2024. As regards accused no.5 / applicant no.2 is concerned, he was there without any weapon. The injuries are caused by the weapon. Prima facie, the assault has happened on the spur of the moment, when the accused had found that the wife of the accused no.1 is with the deceased in the hotel room upstairs.

13] Considering these aspects of the matter and also that the applicants are in jail from 10.09.2024 and 11.09.2024 respectively and considering that there is no assault by the present applicants on the deceased, this court would consider this case for grant of bail for the present applicants. Also, at this moment, it cannot be said, whether the deceased was responsible for precipitating a grievous assault as from the statement of Rani it could be seen that the deceased first assaulted her son with Akodi (iron hook) while her son had gone inside the hotel room using abusive

language. Considering the above aspect of the matter, the present applicants can be granted bail.

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

a] The applicants shall be released on bail in connection with Crime No.0581/2024, dated 10.09.2024, registered with Taluka Jalna Police Station, District Jalna, for the offences punishable under Sections 103(1), 189(2), 190, 191(2), 193(3), 115(2), 118(1), 352, 351(2) of the Bharatiya Nyaya Sanhita, 2023, on furnishing PR bond of Rs.20,000/- each with one or two sureties in the like amount to the satisfaction of the trial Court.

b] The applicants shall not enter the jurisdiction of the concerned police station during the pendency of the trial.

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

d] The applicants shall co-operate with the trial Court and they shall attend each and every date, unless exempted by the trial Court.

e] The applicants shall not tamper with the evidence of the prosecution and they shall not influence the informant, witnesses and other persons concerned with the case.

f] The applicants, 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.

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

16] 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.

17] The application stands disposed of.

[ARUN R. PEDNEKER]
JUDGE

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