



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

CRIMINAL APPEAL NO. 292 OF 2025

Nitin Gokul Thakare .. Appellant
Age. 21 years, Occ. Service,
R/at : Ellora, Tq. Khultabad,
Dist. Aurangabad.

VERSUS

- 1) The State of Maharashtra .. Respondents
Through Khultabad Police Station
- 2) Anand s/o. Babasaheb Ware,
Age. 20 years, Occ. Labour,
R/o. Fule Nagar, Galli No.01,
Usmanpura, Aurangabad.

Mr. Govind M. Sharma, Advocate for the appellant.
Mr. S.B. Jadhav, APP for the respondent-State.
Mr. Rohit S.Shejul, Advocate (appointed) for respondent No.2.

CORAM : KISHORE C. SANT, J.
RESERVED ON : 20.08.2025
PRONOUNCED ON : 22.08.2025

ORDER :-

01. This appeal is for bail in connection with an offence punishable under sections 103(1), 109(1), 124(1), 61 (2)(A) and section

3(5) of the Bhartiya Nyaya Sanhita and section 3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act. The Crime is registered with Khultabad Police Station bearing Crime No. 404 of 2024.

02. Informant Anand lodged an FIR. It is alleged that on 01.10.2024 at around 10.00 a.m. he had been to his work place at one a Nan Center. At around 5.40 p.m. his friend Akki alias Akash came there and told that they need to go to Verul. They both went to Verul on a motorcycle. There Akash called one friend on mobile cell phone. From there, they went to lodge of one Mayur Patni. Mayur called Akash to one Bar namely Swagat Bar. The informant and Akash therefore went to Swagat Bar at Khultabad. In the Bar, present appellant was seen with Mayur Patni. In the bar accused and informant had wine and bear. At 11.30 p.m. one Shaikh Naved came there. Mayur kept amount of Rs. 7000/- on the table. Akash refused to accept that amount demanding some more amount. On that Mayur and others took informant behind the hotel. There Mayur gagged mouth of the informant and assaulted him with sickle on back, eyes and stomach. Naved assaulted Akash with knife on the stomach and on the head. The informant snatched the sickle from the hand of Mayur and ran away to his friend Shaikh Sadik. Shaikh Sadik thereafter took the informant to the Government Hospital.

While treatment was going on, he saw deceased Akash brought to the hospital. He found that there was acid poured on the body of Akash as well as on his mouth and eyes. Akash died there. On this, offence was registered. Police investigated the offence. Now charge-sheet is also filed in the Court and case is now registered.

03. Present appellant came to be arrested. His application for regular bail came to be rejected by the learned Special Judge (SC & ST Act) Aurangabad by order dated 16.04.2025. The appellant is thus before this Court praying for his release on bail.

04. The learned Advocate Mr. Sharma vehemently argued that there is no sufficient evidence to connect the appellant with the offence. Main allegations are against Mayur Patni and not against present appellant, so far as sections 103(1) and 109(1) are concerned. About section 124(1), there is no allegation as to who poured acid on the person of the deceased. The appellant is roped in with the aid of section 61(2)(a) and section 3(5) of the BNS. So far as provisions of Atrocities Act are concerned, there is nothing in the FIR to show that fight was on the count of caste of informant or the deceased. Statement under section 183 of the BNSS is recorded after one month of the incident i.e.

05.11.2024. While arresting the appellant no specific grounds are stated for the arrest. The arrest thus, is in violation of Article 22(1) of the Constitution and there is no compliance of section 47 and 48 of the BNSS. He submits that at the time of arrest only intimation is given. Therefore, the arrest itself is illegal.

05. The learned APP submits that first application of the present appellant came to be rejected on 06.02.2025. There is no change in circumstances since thereafter. Said bail was rejected after filing of the charge-sheet. He thus submits that when there is no change in the circumstances, there is no reason to consider the application. The Trial Court has rightly rejected the application for bail. The Trial Court has rightly dealt with the submissions. From the FIR itself it is clearly seen that there was pre-plan to commit murder of the deceased. Sections 61(2)(a) and 3(5) are therefore rightly attracted. He further submits that all the ingredients of sections 103(1), 109(1) and 124(1) are made out. Since the informant happens to be a person belonging to the Scheduled Caste, offence is made out under section 3(2)(va) of the Atrocities Act.

06. The learned Advocate for respondent No.2 submits that the

role of the appellant is clearly stated by the informant. This appellant has played vital role in the crime. He was having sickle in his hand with which he assaulted the informant. There is statement of relative of deceased Akash. She in her statement clearly stated that she had been to hospital to see the deceased Akash. Deceased Akash informed her about the incident. Thus, there is sufficient evidence on record to connect the appellant with the offence. Statement of Akshay – owner of Swagat Bar shows that he was informed by his elder brother Akash that present appellant and two others committed murder of deceased Akash by assaulting him with knife and by throwing acid on him. This witness has also shown CCTV footage of the incident. There is recovery at the hands of this appellant. He thus submits that no case is made out to allow the appeal.

07. Learned Advocate for the appellant relied upon judgment in the case of **Prabir Purkayastha Vs. State (NCT of Delhi), 2024 INSC 414**. The judgment is on informing the grounds of arrest. The Hon'ble Apex Court in the said judgment held that grounds of arrest are required to be specifically stated and those should not be only formal, which can be stated in every arrest. The Hon'ble Apex Court has considered that the requirement of informing a person arrested, ground of arrest is

mandatory requirement of Article 22(1) of the Constitution. The information of the grounds of arrest must be provided to the arrested person in such a manner that sufficient knowledge of the basic facts constituting the grounds is imparted and communicated to the arrested person effectively in the language which he understands. The mode and method of communication must be such that the object of the constitutional safeguard is achieved.

08. In the case of **Sakib Choudhury Vs. The State of Assam, Bail Appln/629/2025**, the Court considered that notice under section 47 of the BNSS should be clear and should be given with details. If it is not in details, it amounts to violation of constitutional and statutory mandate rendering the arrest illegal.

09. In the case of **Ashish Kakkar Vs. UT of Chandigarh, Criminal Appeal No. 1518/2025**, Hon'ble Supreme Court considered that the appellant was provided only with arrest memo in the prescribed format to be given by way of an intimation. The information given was the name of the appellant along with the place of arrest. Additionally, it was written that he has been arrested based upon the statement of co-accused. The Hon'ble Apex Court held that said arrest memo cannot be

construed as grounds of arrest, as no other worthwhile particulars have been furnished to him.

10. In the present case, it is seen that in the arrest panchanama, the sections are quoted. His mother was informed about the offence and the reasons. He was given information about the arrest. The intimation letter is dated 02.10.2024. The SDPO has given information of arrest to the accused himself, quoting sections for which he is arrested. He has also informed that the intimation is given to his mother Sangita Thakare. There is also intimation given to the mother of present appellant quoting sections.

11. This Court finds that there is sufficient compliance of the arrest. Looking to the serious allegations and the gravity thereof, this Court is clearly of the opinion that no case is made out to allow the appeal. This Court finds no illegality with the order passed by the learned Trial Judge.

12. Considering the above, this Court finds that the appeal deserves to be dismissed and the same is hereby dismissed.

13. This Court appreciates the efforts taken by learned Advocate appointed for respondent No.2. His fees quantified at Rs. 5000/- (Rupees Five Thousand) shall be paid by High Court Legal Services Sub-Committee, Aurangabad, as per rules.

[KISHORE C. SANT, J.]