

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

31 BAIL APPLICATION NO. 850 OF 2025
WITH
CRIMINAL APPLICATION NO. 1934 OF 2025 IN BA/850/2025

SUBHASH KALURAM KALE AND ANOTHER
VERSUS
THE STATE OF MAHARASHTRA

...
Advocate for Applicant : Mr. M.P. Tripathi
APP for Respondent/State : Mr. V.M. Jaware
Advocate for assisting APP : Mr. Arvind S. Deshmukh
...

CORAM : ARUN R. PEDNEKER, J.

DATE : 21/07/2025

P.C. :

1. Criminal Application No. 1934/2025 filed for assisting APP is allowed and disposed of. Mr. Arvind S. Deshmukh is allowed to assist APP.
2. The applicants are seeking bail as they are arrested in connection with Crime No. 22/2025 dated 14.1.2025 registered with Sailu Police Station, Tq. Sailu, District Parbhani for the offences punishable under sections 105, 61(2), 238 of B.N.S., 2023.
3. The case of the prosecution is that on 14.1.2025 police head constable of aforesaid police station has lodged report that mother of the deceased has lodged missing complaint on 31.10.2024 at 10.00 p.m. that her son/deceased went outside and never returned. During investigation it was found that the deceased and others co-accused went for hunting wild pigs in the field Prakash Navade where somebody started chasing them. During chasing, the deceased came in contact with the wire fencing installed around the field for preventing the crops being destroyed by wild animals. It is alleged that after receiving electric shock the deceased died. The co-accused and present applicants after finding that the deceased died, due to fear of their community for their

negligence, carried the dead body of the deceased in the quarry of Harichandra Rathod and they put the dead body in an iron net with stones and put it in the water of the said quarry. The applicants were arrested on 14.1.2025. The allegations against the applicants is that they conspired and after electrocution the applicants have not informed about the death of deceased to anyone and dumped the dead body of the deceased in quarry and thus, committed the offence of disappearing of evidence. In the report, it is stated that the dead body was recovered in decomposed condition at the instance of applicants after the period of two and half months from the date of missing complaint. Thus the applicants and other co-accused were chargesheeted for aforesaid offences.

4. The learned counsel for the applicants submits that the applicants were arrested on 14.1.2025 and since then they were behind bars. Chargesheet in the matter is filed. There are no antecedents against the applicants. The learned counsel submits that even assuming the prosecution case as it is, the alleged offence is of disappearing of evidence. The learned counsel therefore prays to release the applicants on regular bail.

5. Per contra, the learned APP submits that the dead body is recovered at the instance of applicants after substantial period of time. The applicants have not informed anyone about the dumping of the body of the deceased and as such, no bail can be granted to them.

6. The learned counsel appearing for assist to P.P. submits that investigation in the matter is not carried out properly. It is not known where the deceased died, where he came in contact with fencing wire wherein electric current is passing etc. and punishable sections are applied erroneously. The learned counsel submits that section 103 of B.N.S. ought to have been levelled against the applicants and other co-accused for committing the

murder of the deceased and for disappearance of the evidence. The learned counsel therefore prays to dismiss the application.

7. Having considered the above submissions and police papers, it can be said that the case put up by the prosecution against the applicants and co-accused is for the offence of disappearance of the evidence. The applicants are in custody from 14.1.2025 and since then they are behind bars. Investigation is completed and chargesheet is also filed in the matter. No purpose would be served by keeping the applicants behind bars till the conclusion of the trial.

8. However, it is clarified that if informant initiates appropriate proceedings and in pursuance of such proceeding charge for grave offences are applied against the applicant, liberty is granted to the informant to seek recall the present order.

9. 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. 22/2025 dated 14.1.2025 registered with Sailu Police Station, Tq. Sailu, District Parbhani for the offences punishable under sections 105, 61(2), 238 of B.N.S., 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, upon being released on bail, shall not contact the informant, in any manner whatsoever, during the pendency of the trial.

c] The applicants shall co-operate with the trial Court and he shall attend each and every date, unless exempted by the trial Court, for reasons to be recorded in writing.

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 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.

10. 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.

11. Liberty is granted to the informant to recall the present order if the charge for grave offences are applied against the applicants.

12. 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.

13. The application stands disposed of.

[ARUN R. PEDNEKER, J.]

SSC/