



IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 2196 OF 2025

Sangram Sanjay Kotkar
Age: - 33 years, Occ: - Service,
R/o. S/O Sanjay Kotkar H. No, 1317,
Nepti Road, Behind Archana Hotel
Kotkar Galli, Kedgaon Ahilyanagar.

...APPLICANT
(Ori. Informant)

VERSUS

1. The State Maharashtra
Through the Police Station Officer
Kotwali, Police Station, Dist. Ahilyanagar
2. Sandip Raychand Gunjal
Age: 29 Years, Occ: Business
R/o: Nepti Road, Kedgaon,
Ahilyanagar Dist. Ahilyanagar
3. Balasaheb Eknath Kotkar
Age: 59 Years, Occ: Business
R/o: Eknathnagar, Kedgaon,
Ahilyanagar Dist. Ahilyanagar
4. Bhanudas Mahadeo Kotkar
Age: 44 Years, Occ: Business
R/o: Shahunagar, Kedgaon,
Ahilyanagar Dist. Ahilyanagar
5. Sangram Arun Jagtap
Age: 33 Years, Occ: Business
R/o: Bhawani Nagar, Kedgaon,
Ahilyanagar Dist. Ahilyanagar
6. Babasaheb Vitthal Kedar
Age: 38 Years, Occ: Business
R/o: Nimgaon Wagha,
Tq: Ahilyanagar Dist. Ahilyanagar
7. Sandip @ Janty Balasaheb Girhe
Age: 29 Years, Occ: Business

R/o: Shahunagar, Kedgaon,
Ahilyanagar Dist. Ahilyanagar

8. Ravindra Ramesh Kholam
Age: 40 Years, Occ: Business
R/o: Milind Hou. Society, Kedgaon,
Ahilyanagar Dist. Ahilyanagar
9. Mahavir @ Pappu Ramesh Mokale
Age: 30 Years, Occ: Business
R/o: Shahunagar, Kedgaon,
Ahilyanagar Dist. Ahilyanagar
10. Vishal Balasaheb Kotkar
Age: 29 Years, Occ: Business
R/o: Eknathnagar, Kedgaon,
Ahilyanagar Dist. Ahilyanagar
11. Bhanudas Eknath Kotkar
Age: 62 Years, Occ: Business
R/o: Nepti Road, Kedgaon,
Ahilyanagar Dist. Ahilyanagar
12. Arun Balbhim Jagtap
Age: 40 Years, Occ: Business
R/o: Bhawaninagar, Kedgaon,
Ahilyanagar Dist. Ahilyanagar
13. Shivaji Bhanudas Kardile
Age: 40 Years, Occ: Business
R/o: At Burhanpur,
14. Sandip Balasaheb Kotkar
Age: 29 Years, Occ: Business
R/o: Sadar,
Ahilyanagar Dist. Ahilyanagar
15. Audumbar Balasaheb Kotkar
Age: 42 Years, Occ: Business
R/o: Sadar,
Ahilyanagar Dist. Ahilyanagar
16. Ashok Mohan Karale
Age: 30 Years, Occ: Business
R/o: Shivajinagar, Kedgaon,
Ahilyanagar Dist. Ahilyanagar

17. Navnath Mohan Karale
Age: 40 Years, Occ: Business
R/o: Sadar,
Tq: Ahilyanagar Dist. Ahilyanagar
18. Mohasin Salim Shaikh
Age: 29 Years, Occ: Business
R/o: Shivajinagar, Kedgaon,
Ahilyanagar Dist. Ahilyanagar
19. Vijay Eknath Karale
Age: 62 Years, Occ: Business
R/o: Shivajinagar, Kedgaon,
Ahilyanagar Dist. Ahilyanagar
20. Ramesh Tatyabhu Kotkar
Age: 40 Years, Occ: Business
R/o: Veshiche Aat, Kedgaon,
Ahilyanagar Dist. Ahilyanagar
21. Sharad Ramchandra Jadhav
Age: 40 Years, Occ: Business
R/o: Shivajinagar, Kedgaon,
Tq: Ahilyanagar Dist. Ahilyanagar
22. Dada Bansi Yenare
Age: 29 Years, Occ: Business
R/o: Shivajinagar, Kedgaon,
Ahilyanagar Dist. Ahilyanagar
23. Vinod Shivaji Lagad
Age: 42 Years, Occ: Business
R/o: Kedgaon,
Ahilyanagar Dist. Ahilyanagar
24. Manoj Bhau Karale
Age: 30 Years, Occ: Business
R/o: Shivajinagar, Kedgaon,
Ahilyanagar Dist. Ahilyanagar
25. Mayur Ghanshyam Raut
Age: 40 Years, Occ: Business
R/o: Sarasnagar,
Tq: Ahilyanagar Dist. Ahilyanagar
26. Vaibhav Dhondiram Wagh
Age: 40 Years, Occ: Business
R/o: Nalegaon, Kedgaon,

Tq: Ahilyanagar Dist. Ahilyanagar

27. Sharad Waman Lagad
Age: 29 Years, Occ: Business
R/o: Eknathnagar, Kedgaon,
Ahilyanagar Dist. Ahilyanagar
28. Swapnil Popat Pawar
Age: 42 Years, Occ: Business
R/o: Kedgaon,
Ahilyanagar Dist. Ahilyanagar
29. Sanket Sharad Lagad
Age: 30 Years, Occ: Business
R/o: Eknathnagar, Kedgaon,
Ahilyanagar Dist. Ahilyanagar
30. Babasaheb Bapu Kotkar
Age: 40 Years, Occ: Business
R/o: Nepti Road, Kedgaon,
Tq: Ahilyanagar Dist. Ahilyanagar
31. Raju Devram Gangad
Age: 40 Years, Occ: Business
R/o: Shahunagar, Kedgaon,
Tq: Ahilyanagar Dist. Ahilyanagar ... RESPONDENT

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Advocate for the Applicant : Mr. Umesh Yadav (Through V.C.) and Ms. Sunita G. Sonawane h/f Ms. Vasundhara V. Patil

APP for Respondents-State : Ms. Uma S. Bhosle

Advocate for Respondent Nos. 3, 9,11,13,18, 19,20, 23 and 27 : Mr. Rushi Ghorpade a/w Mr. Amarjeet V. Patil

Advocate for Respondent No. 6 : Mr. Krushna N. Bhosale

Advocate for Respondent Nos. 4 and 7 : Mr. Balraj P. Pande

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CORAM : SUSHIL M. GHODESWAR, J.

DATE : 21.11.2025

PER COURT :

1. The applicant in this case has approached this Court under

Section 447 and 528 of the Bhartiya Nagark Suraksha Sanhita, 2023 for following reliefs.

“A) This Misc. Civil application may kindly be allowed.

B) Be pleased to transfer of proceeding Crime bearing FIR. No. I-136/2018 registered with Kotwali Police Station Dist. Ahilyanagar pursuant to the same Special Case No. 26/2019 pending before the learned District Judge 3 and Addl. Sessions Judge for the offence punishment under section 302, 303, 120 (b), 143, 144, 145, 147, 148, 149, 504, Indian Penal Code and under section 3, 4/25 of Arms Act to the other equivalent Ld. Trial Court in Ahmednagar

C) Be pleased to stay the proceeding of transfer of proceeding bearing Crime No. 136 of 2018 registered with Kotwali Police Station Dist. Ahilyanagar pursuant to the same Special Case No. 26/2019 pending before the learned District Judge 3 and Addl. Sessions Judge for the offence punishment under section 302, 303, 120 (b), 143, 144, 145, 147, 148, 149, 504, Indian Penal Code and under section 3, 4/25 of Arms Act till the disposal of this application.

D) Ad-interim relief in terms of prayer Clause “C” may kindly be granted in favour of the applicant.”

2. It appears that a Sessions Case No. 26 of 2019 is pending before the learned Additional Sessions Judge, Ahilyanagar since 2019. It is arising out of Crime No. 136 of 2018 which is registered for the offences punishable under Sections 302, 303, 120 (b), 143, 144, 145, 147, 148, 149, 504 of the Indian Penal Code and under section 3, 4/25 of Arms Act .

3. The applicant is the original informant on whose behalf the First Information Report No. I-136 of 2018 came to be registered with

Kotwali Police Station, District Ahilyanagar. The Crime is in respect of murder of two persons namely Sanjay Kotkar and Vasant Ananda Thube. The applicant in the instant matter sought transfer of the aforesaid Special Case No.26 of 2019 to other equivalent Sessions Trial Court at Ahilyanagar. The main ground for transfer is since charge is not framed till date the accused persons are filing discharge applications before the session court and same are being allowed.

4. Be that as it may be however during the course of hearing it is revealed to this Court that the aforesaid two deceased persons were attacked in view of political rivalry in pursuance to elections of councilor from Ward No. 32 of Ahilyanagar, which was held on 06.04.2018. On the very next date, a gruesome murder of aforesaid two persons took place. There are total 30 accused persons in the said Crime. Though the charge sheet is filed it is informed to this court that till date the charge is not framed against accused persons.

5. Looking to the seriousness involved this Court on 16th September, 2025 had sought a report from the learned Principal District and Sessions Judge, Ahilyanagar, as regards whether the trial in question can be conducted by the Fast Track Court on day to day basis. The learned Principal District and Sessions Judge, Ahmednagar was pleased to forward a report dated 06.10.2025 to this Court. The perusal of which discloses that the trial in question can be conducted through

the Fast Track Court on day to day basis.

6. Mr. Rushi Ghorpade a/w Mr. Amarjeet V. Patil, learned Counsel appearing for the respondent Nos. 3, 9,11,13,18, 19, 20, 23 and 27 has vehemently opposed the application for transfer of the Sessions trial from one Court to other Court. According to him, this Court may act either on the report of the lower Court or on the application of the party interested or on its own initiative, provided no such application shall be entertained unless the application for such transfer is made to the learned Sessions Court and it is rejected by him. He is mainly relying on the proviso to Clause of Sub Section 2 of Section 447 of the Bhartiya Nagark Suraksha Sanhita, 2023. In addition to this, he further submitted that the informant in this case had applied to the Principal District and Sessions Judge, Ahilyanagar vide application dated 05.05.2025. However, on 06.05.2025 the learned Principal District and Sessions Judge was pleased to order to forward the application to the concerned Court for taking action and to proceed with the matter. He further submitted that the order passed therein is on the administrative side and that too by the Principal District and Sessions Judge. Therefore according to him since the applicant has not approached to concerned court first, his request for transfer should not be entertained.

7. Mr. Umesh Yadav, learned Advocate for the applicant (through Video Conferencing) has submitted that the applicant in order

to canvas his grievances had approached the learned Principal District and Sessions Court by filing application dated 05.05.2025. According to him, in the said application it was canvassed by him that the matter is in respect of sensitive murder case of two persons and the accused persons are the influential political persons. Since the trial is not being proceeded further and as even the charge is not framed, the accused persons have started approaching the Sessions Court for filing discharge applications and the same are being allowed. He has further submitted that the learned Principal District and Sessions Judge, Ahmednagar, in pursuance to the said application for transfer, has pleased to pass order on 06.05.2025, directing the concerned Court to proceed with the matter. He further submits that for seeking transfer of the case from one Court to another Court, no specific proforma or format is prescribed. The learned Principal District and Sessions Court is competent enough to assign the cases to the different Sessions Courts and/or to the Special Courts for its speedy disposal and therefore, the recourse adopted by him is proper and there is no any hurdle for this Court to transfer the Sessions trial from one Court to another Court.

8. The provisions of Section 447 are very useful for the purpose of adjudication of the instant matter. Section 447 is being reproduced here which reads as under :

“(1) Whenever it is made to appear to the High Court---

(a) that a fair and impartial inquiry or trial cannot be had in any Criminal Court subordinate thereto; or

(b) that some question of law of unusual difficulty is likely to arise; or

(c) that an order under this section is required by any provision of this Sanhita, or will tend to the general convenience of the parties or witnesses, or is expedient for the ends of justice,

it may order---

(i) that any offence be inquired into or tried by any Court not qualified under sections 197 to 205 (both inclusive), but in other respects competent to inquire into or try such offence;

(ii) that any particular case or appeal, or class of cases or appeals, be transferred from a Criminal Court subordinate to its authority to any other such Criminal Court of equal or superior jurisdiction;

(iii) that any particular case be committed for trial to a Court of Session; or

(iv) that any particular case or appeal be transferred to and tried before itself.

(2) The High Court may act either on the report of the lower Court, or on the application of a party interested, or on its own initiative:

Provided that no application shall lie to the High Court for transferring a case from one Criminal Court to another Criminal Court in the same sessions division, unless an application for such transfer has been made to the Sessions Judge and rejected by him.

(3) Every application for an order under sub-section (1) shall be made by motion, which shall, except when the applicant is the Advocate-General of the State, be supported by affidavit or affirmation.

(4) When such application is made by an accused person, the High Court may direct him to execute a bond or bail bond for the payment of any compensation which the High Court may award under sub-section (7).

(5) Every accused person making such application shall give to the Public Prosecutor notice in writing of the application, together with a copy of the grounds on which it is made; and no order shall be made on the merits of the application unless at least twenty-four hours have elapsed between the giving of such notice and the hearing of the application.

(6) Where the application is for the transfer of a case or appeal from any subordinate Court, the High Court may, if it is satisfied that it is necessary so to do in the interest of justice, order that, pending the disposal of the application the proceedings in the subordinate Court shall be stayed, on such terms as the High Court may think fit to impose:

Provided that such stay shall not affect the subordinate Court's power of remand under section 346.

(7) Where an application for an order under sub-section (1) is dismissed, the High Court may, if it is of opinion that the application was frivolous or vexatious, order the applicant to pay by way of compensation to any person who has opposed the application such sum as it may consider proper in the circumstances of the case.

(8) When the High Court orders under sub-section (1) that a case be transferred from any Court for trial before itself, it shall observe in such trial the same procedure which that Court would have observed if the case had not been so transferred.

(9) Nothing in this section shall be deemed to affect any order of the Government under section 218."

9. The aforesaid provisions and particularly Sub Section (1) of Section 447 of the B.N.S.S. Act, 2023 makes it clear that the High Court can act suo-moto and also may entertain the application preferred under Section 407 of the Old Code of Criminal Procedure, 1973 or 448 of the Bhartiya Nyaya Samhita, 2023. Since the case involves murder out of political rivalry there could be many influential persons attached to this case from both sides. In such cases there is reasonable apprehension of likelihood of failure of justice in the minds of public at large. Looking to facts and circumstances involved in this matter it is necessary to show public at large that the judiciary functions without fear or favour.

10. It is to be seen here that this case is of the year 2018 and there are as many as 30 accused persons who are facing trial. There are also too many witnesses in the matter. It is already informed that the charge against the accused is also yet to be framed. The case not only

being sensitive but also voluminous in nature, therefore requires special consideration and speedy disposal. In this situation it is expedient for the ends of justice to issue directions to the learned Principal District and Sessions Judge, Ahmednagar, to assign this matter to the Fast Track Court.

11. Therefore, the Principal District and Sessions Judge, Ahmadnagar is directed to assign the Sessions Case No. 26 of 2019 to any Fast Track Court, as per suitability, which shall conduct matter on day to day basis and dispose of the session trial within a period of one year from today. All the parties, learned counsels concerned with the case, witnesses, including the applicant herein are directed to co-operate with the said court.

12. Hence the application is disposed of in above terms.

(SUSHIL M. GHODESWAR, J.)

mahajansb/