



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

BAIL APPLICATION NO. 1383 OF 2025

Shivaji Baban Solunke
VERSUS
The State Of Maharashtra

....
Mr. Ghanekar Nilesch S., Advocate for Applicant
Mr. N. B. Patil, APP for Respondent/State
Mr. P. A. Bhosle, Advocate for assist to APP

CORAM : SANJAY A. DESHMUKH, J.

DATE : 15th October, 2025.

P.C.:

1. Heard learned advocates for the respective parties.
2. This is an application for grant of regular bail under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023, in connection with Crime No.128 of 2024, registered at Ambad Police Station, District Jalna, for the offences punishable under Sections 302, 307, 323, 143, 147, 148 and 149 of the Indian Penal Code, 1860.
3. The learned advocate for the applicant pointed out the report in which the informant averred that on 10.03.2024 at about 09:45 p.m., while he was at home, he received a call from his brother's father-in-law Laxman Solanke, who informed him that his brother Kashinath was going to the agricultural land for watering the onion crop, at that time, the applicant and co-accused abused him. Dnyaneshwar Surase, Laxman Surase assaulted Kashinath with a knife on his neck, while the applicant assaulted him on the back with a knife.

When the informant and his cousin brother Sopan reached there to take Kashinath to the hospital, they were also attacked. The co-accused assaulted them with knives, while the applicant assaulted the informant on the head with an axe and co-accused Krishna assaulted him on the left hand with an iron rod. Based on these allegations, the report was lodged.

4. The learned advocate for the applicant submitted that the applicant is falsely implicated in the crime. The applicant has roots in the society and he will not flee away from the trial. The charge sheet has been filed and further custody of the applicant is not necessary. The trial will take a long period. It is submitted that the grounds of arrest were not communicated to the applicant. In support of his submission, the learned advocate for the applicant relied on the case of *Vihan Kumar Vs. The State of Haryana & Another, arising out of SLP (Crl.) 13320 of 2024, decided on 07.02.2025*, in which it is held that if the procedure under Section 50A of the Code of Criminal Procedure, requiring the communication of the reasons for arrest to the accused is not followed, the accused is entitled for bail. It is lastly prayed to allow the application.

5. The learned APP of the State, assisted by the learned advocate for the informant, strongly opposed the application and submitted that the applicant is booked for a serious crime of murder and that there is direct evidence of an eye-witness. The grounds for the applicant's arrest have already been communicated to him. Further, the applicant did not raise this ground in his

earlier bail application, which was withdrawn when the Court expressed disinclination to grant bail to the applicant. It is lastly prayed to reject the application.

6. The learned APP relied on the law laid down in the case of ***The State of Karnataka Vs. Sri Darshan, reported in 2025 INSC 979***, decided on 14.08.2025, in which it is held as under:

“20.1.5. While Section 50 of the Code of Criminal Procedure is mandatory, the consistent judicial approach has been to adopt a prejudice oriented test when examining alleged procedural lapses. The mere absence of written grounds does not ipso facto render the arrest illegal, unless it results in demonstrable prejudice or denial of a fair opportunity to defend.

“20.1.7. In the present case, the arrest memos and remand records clearly reflect that the respondents were aware of the reasons for their arrest. They were legally represented from the outset and applied for bail shortly after arrest, evidencing an immediate and informed understanding of the accusations. No material has been placed on record to establish that any prejudice was caused due to the alleged procedural lapse. In the absence of demonstrable prejudice, such as irregularity is, at best, a curable defect and cannot, by itself, warrant release on bail. As reiterated above, the High Court treated it as a determinative factor while overlooking the gravity of the charge under Section 302 IPC and the existence of a prima facie case. Its reliance on Pankaj Bansal and Prabir

Purkayastha is misplaced, as those decisions turned on materially different facts and statutory contexts. The approach adopted here is inconsistent with the settled principle that procedural lapses in furnishing grounds of arrest, absent prejudice, do not ipso facto render custody illegal or entitle the accused to bail.”

7. Perused the charge-sheet, particularly the report, statements of witnesses and the post mortem report. The applicant is involved in a serious crime of murder for which death penalty or life imprisonment can be awarded. He may pressurize the prosecution witnesses and tamper with the evidence. Thus, no ground is made out by the applicant to grant bail to him on the principle that bail is rule and jail is exception. As far as the contention of learned advocate for the applicant is concerned that the grounds of arrest were not communicated to him, the applicant did not raise this ground in his earlier bail application, despite being represented by an advocate from the date of his arrest. No any prejudice is shown to have caused to the applicant as held in ***The State of Karnataka Vs. Sri Darshan, (supra)***. The applicant is, therefore, not entitled for bail on the ground that grounds of arrest were not communicated to him. The Bail Application is rejected.

[SANJAY A. DESHMUKH, J.]