



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

**CRIMINAL APPEAL NO. 549 OF 2025**

Aslam Dastagir Shaikh

.. Appellant

**Versus**

The State Of Maharashtra And Another

.. Respondents

Mr. P. P. More, Advocate for the Appellant.

Smt. M. N. Ghanekar, APP for Respondent No. 1.

Smt. Priyanka Y. Sarnaik, Advocate h/f Mr. D. S. Patil, Advocate  
for Respondent No. 2.

**CORAM : KISHORE C. SANT, J.**

**DATE : 19<sup>th</sup> AUGUST, 2025.**

**PER COURT :-**

. The learned advocate Smt. Sarnaik holding for learned advocate Mr. Patil states that, she has received instructions to appear for respondent No. 2. She undertakes to file Vakalatnama within two weeks from today.

2. This appeal is filed seeking regular bail in connection with Crime No. 169/2025 registered with Gandhi Chowk Police Station, Latur for the offences punishable under Sections 3(v), 3(2), 3(1)(s), 3(1)(r) of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act (for short “Atrocities Act”) and

Sections 352, 3(5), 115(2), 109(1) of the Bhartiya Nyaya Sanhita (for short "B.N.S."). This is second bail application in this Court. Earlier bail application was rejected by this Court prior to filing of the charge-sheet.

3. It is the case that, respondent No. 2 lodged an offence dated 23.04.2025 with the police station. It is alleged that, on 22.04.2025 he met with one Siddharth Suryawanshi, his friend at Shivaji Maharaj Chowk, Latur. This accused with one Firoz Pathan started fighting. The respondent No. 2 belongs to scheduled caste. The accused/present appellant knows the caste of informant. He came on a bullet by sounding horn and started abusing the informant in the name of his caste. He said that the people from caste of the informant have become arrogant. By saying this they assaulted with fist and blows. This appellant took out a knife named Khanjar and said that he would murder the informant and his friend Siddharth. In that assault Siddharth received an injury by knife near elbow. The appellant thereafter told Firoz Pathan to take out Khanjar and told him to assault the informant. In this the informant and Siddharth ran away from the spot and went to Government hospital, Latur. The informant was admitted in

private hospital, Latur. His statement came to be recorded in the hospital. On the basis of his statement, FIR came to be lodged.

4. The appellant came to be arrested immediately after lodging of the FIR. The appellant thereafter filed bail application that came to be rejected by the learned Trial court. The appellant, therefore, approached this Court by filing Criminal Appeal No. 371/2025. In the meantime, investigating officer filed charge-sheet on 19.06.2025, the appellant therefore withdrew his appeal. Now, the case is registered as Special Case No. 89/2025. In the said case, the appellant filed application below Exh. 7 for bail. The said application came to be rejected on 14.07.2025. Thus, the appellant is before this Court.

5. The learned advocate for the appellant vehemently argued that, no offence under Section 307 of the Indian Penal Code (for short "I.P.C.") is made out. From the injuries it is clear that, at the most the offence would be under Section 326 of the I.P.C. There is no injury on the vital part of the informant and his friend. He further submits that, the appellant is suffering from ailments. It is necessary for him to get proper treatment and on this ground he deserves a bail. He placed on record medical certificates. He

submits that, though there is allegation that the appellant is involved in various cases, however, he is acquitted in two cases. Those cases are of 2019 and 2021. Thereafter there is no complaint except present complaint. He thus submits that, criminal antecedents would not come in the way of the appellant. For that purpose he relied upon the judgment in the case of **Prabhakar Tewari Vs. State of Uttar Pradesh and another** reported in **2020 (11) SCC 648**.

6. The learned A.P.P. vehemently opposes the appeal. She submits that, there is panchanama. There is recovery of Khanjar from the appellant. Panchanama of the spot was made wherein, blood stains are found on the floor where the incident took place. There is also CCTV footage collected from the spot wherein, the incident is clearly seen where the appellant has assaulted the informant. There are statements of eye witnesses clearly implicating the appellant. They have clearly stated that the present appellant used a knife and assaulted Siddharth. So far as medical certificates are concerned, she submits that, though a ground of medical ailment is taken, she has pointed out that the ailment is not serious. There is no medical emergency as such.

She relied upon the certificate by the Government hospital which only shows that there is optional surgery. She further pointed out that, though the appellant was taken to the hospital, he on his own took discharge against medical advice. She has invited attention to the undertaking given to the hospital showing that the patient has refused to use catheter. There is letter dated 30.04.2025 prepared by the doctor addressed to Chief Medical Officer, Government Hospital, Latur showing that the patient has taken discharge against medical advice. On 01.05.2025 the accused specifically refused to go for Colonoscopy. She thus submits that, when medical ground is taken, it was necessary for him to take treatment from the doctor. On one hand he refused to take treatment and on the other hand he wants bail on that ground. His conduct clearly shows that there is no medical emergency as such. Every care can be taken in the hospital. She submits that, there are total seven cases against the appellant. In the cases in which he is acquitted, his acquittal is because witnesses became hostile. She thus submits that, acquittal is not clean acquittal. Looking to the conduct the appellant does not deserve bail.

7. The learned advocate for respondent No. 2 also vehemently opposes the appeal. She submits that, offence is clearly made out. There is ample evidence collected by the investigating officer. From the previous conduct of the appellant it is seen that, he is a person with criminal background. She prays for dismissal of the appeal.

8. The following is the status of the criminal cases against the present appellant.

| Crime No.        | Offences                                                 | Status             |
|------------------|----------------------------------------------------------|--------------------|
| Cr. No. 740/2016 | 324, 323, 504, 506, 34 of IPC                            | Awaiting summons   |
| Cr. No. 341/2018 | 324, 323, 504, 34 of IPC                                 | Acquittal          |
| Cr. No. 107/2019 | 392, 34 of IPC                                           | Acquittal          |
| Cr. No. 283/2019 | 307, 326, 323, 504, 506, 34 of IPC                       | Bail granted       |
| Cr. No. 563/2021 | 307, 324, 323, 504, 34 of IPC                            | Bail granted       |
| Cr. No. 279/2025 | 333, 118(1), 115(2), 352, 351(2)(3), 323(5), 3(5) of BNS | Status not showing |
| Cr. No. 323/2019 | 392, 504, 506, 34 of BNS                                 | Acquittal          |

9. This one factor is important factor to take into consideration while deciding the case.

10. In the case of **Prabhakar Tewari** (*supra*), the Hon'ble Apex Court held that, merely because criminal antecedents are found

against the person that itself is no ground to refuse the prayer of bail. In the said case, the High Court had exercised discretion by granting bail to the accused person. The order of grant of bail was challenged before the Hon'ble Apex Court. It is in that view the Hon'ble Apex Court observed that, mere criminal antecedents is no ground to refuse bail.

11. In the present case, though the acquittal is there in two cases as pointed out by the learned A.P.P. that is not clean acquittal. Two cases i.e. Crime Nos. 283/2019 and 563/2021 show that the appellant is involved in bodily offences. The offence is under Section 307 of the I.P.C. In the present case, it is sought to be canvassed by the learned advocate for the appellant that, looking to the injuries caused to the informant and Siddharth, it shows that the offence at the most can be said to be under Section 326 of the I.P.C. and not under Section 307 of the I.P.C. However, this Court finds that even taken it as under Section 326 of the I.P.C., looking to the criminal antecedents, it would not be proper to release the appellant on bail. It is clearly seen that, in two cases he is already granted bail and the present FIR is registered when he is on bail in connection with two earlier

offences. For this reason this Court finds that, present case is not a fit case in which appellant deserves a liberty.

12. So far as medical ground is concerned, this Court finds substance in the argument of learned A.P.P. that on one hand the appellant is seeking bail on medical ground whereas, on the other hand he is refusing to take treatment from the hospital. The ailment shown is abdomen pain, vomiting etc. which does not appear to be serious. Had the injuries were serious, he would have taken treatment. He has also not allowed the doctor to go for a colonoscopy, which would help in diagnosing his ailment. Thus, it is clear that he is avoiding a proper diagnosis. In such circumstances, this Court finds that, even medical ground would not help him.

13. Considering all above, this Court is not inclined to allow the appeal. Criminal appeal, therefore, stands dismissed.

**( KISHORE C. SANT, J. )**

P.S.B.