



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPEAL NO. 582 OF 2025
(For Regular Bail)

KAISAR @ KAUSAR HAMID SHAIKH
VERSUS
THE STATE OF MAHARASHTRA AND
GAUTAM MURLIDHAR HIWRALE

...
Shri Pradeep V. Ambade, Advocate for the Appellant.
Shri G.O. Wattamwar, APP for Respondent No.1/ State.
Ms. Kojagiri M. Salve, Advocate for Respondent No.2
(appointed).
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CORAM : SUSHIL M. GHODESWAR, J.

Reserved on : 15 September, 2025
Pronounced on : 22 September, 2025

ORDER :-

1. By this appeal for regular bail, the appellant is praying for quashing and setting aside the order dated 08.07.2025 passed by the learned Additional Sessions Judge, Ambad, District Jalna, on application below Exhibit-5 in Special Case No.24/2025, by which, the said application for regular bail is rejected.

2. The above bail application was preferred in Crime bearing FIR No.111/2025 registered on 01.04.2025 with Ghansawangi Police Station, District Jalna for the offences

punishable under Sections 302, 201, 34 of the Indian Penal Code and Sections 3(2) and 3(V) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short, 'the Atrocities Act'). The FIR came to be lodged at the behest of respondent No.2/ informant (Gautam Murlidhar Hivrale).

3. The informant Gautam Murlidhar Hivrale lodged the report stating that the informant's brother, namely, Pramod Murlidhar Hivrale (deceased) who was working as driver on Mahindra pick-up vehicle, was having illicit relationship with one Sumaiyya Yusuf Sayyed, who is wife of one Yusuf Sayyad (accused No.1). The appellant/ accused No.3 (Kaisar) is her maternal uncle. On account of illicit relationship, there used to be frequent quarrels between the parties and on two to three occasions, accused No.1 (Yusuf), accused No.2 Yunus (brother of accused No.1) and accused No.3/ appellant Kaisar had assaulted Pramod and also threatened to commit his murder. It is alleged that though the informant and his relatives had tried to give understanding to Pramod with regard to illicit relationship with Sumaiyya, still he was not listening and continued with the said relationship. On 11.07.2023, Pramod left house on his motorcycle at around 11:00 am, however, he did not return in evening. The informant tried to contact Pramod on his phone,

however, his phone was switched off. Therefore, on 13.07.2023, the informant's mother (Prayagbai Hiwrale) lodged the missing report bearing No.43/2023 with Harsul Pollice Station, Chhatrapati Sambhajanagar. During investigation of the said missing report, the Police obtained CDR report of the mobile phone being used by Pramod. In CDR report, they found that there was frequent conversation between Pramod and Sumaiyya. Therefore, the informant and his relatives went to house of Sumaiyya at village Bangaon Zopadpatti, Taluka Ambad, District Jalna, however, her house was locked. Therefore, they enquired to neighbourers about whereabouts of Sumaiyya. When they showed photograph of Pramod to neighbourers, they recognized him and told that on 11.07.2023 he had come to meet Sumaiyya and some dispute took place in her house. It was informed to them that on the next day Sumaiyya went to the house of her relative at Siddheshwar Pimpalgaon, Taluka Ambad. Therefore, the informant and his relatives went to village Siddheshwar Pimpalgaon and met Sumaiyya as well as her husband Yusuf. Upon being asked about Pramod, they refused to disclose anything about him. Thereafter, they returned to Chhatrapati Sambhajanagar where they met uncle of Sumaiyya, namely, present appellant (Kaisar) and they found certain injury on his leg. When they enquired about the said injury, he informed them

that during construction work, he suffered with an accident and therefore, his leg got injured. When the informant disclosed all these events to the Police, they called Yusuf and Sumaiyya to Harsul Police Station, Chhatrapati Sambhajinagar for enquiring about Pramod, however, they did not disclose anything to the police. The informant also visited Police Stations at Ambad, Tirthapuri and Ghansawangi and made enquiries about Pramod. During such visit at Ghansawangi Police Station, the informant met PSI Shri Dolare, who showed him photo of one dead person on his mobile. When they saw clothes and sandles of the dead person, they confirmed that the said belongings are of the deceased Pramod. The Police obtained DNA sample of the mother of Pramod for further investigation. Thereafter, on 07.05.2024, PSI Shri Kale informed on mobile to the informant that within jurisdiction of Ghansawangi Police Station, one motorcycle was found in one well, whose both number plates are broken. The said PSI asked the informant to forward documents of the said motorcycle on whatsapp. On the basis of chasis and engine numbers, it was confirmed that the said motorcycle was belonging to Pramod. On 08.02.2025, when PSI Shri Kale enquired one Imran Karimoddin Shaikh and Siraj Gulab Shaikh, they informed him that on 12.07.2023 Sumaiyya had disclosed them that her husband and brother-in-law have assaulted. It is

alleged that when the informant made enquiry to Imran Shaikh about his brother Pramod, he disclosed him that on 11.07.2023, Pramod had asked him to accompany to village of Sumaiyya on his motorcycle as Pramod and Sumaiyya had decided to elope and the said Imran was to return with motorcycle. However, Imran alleged to have refused to accompany Pramod. Thereafter, Sumaiyya had called Imran whether, Pramod had reached to Chhatrapati Sambhajnagar as he had been assaulted by her husband and brother-in-law. Therefore, the informant lodged FIR against accused persons and Crime No.111/2025 came to be registered on 01.04.2025.

4. Learned advocate for the appellant submits that the case of prosecution is based purely on circumstantial evidence and there is no direct evidence available in the instant crime. The appellant is arrested on 02.04.2025 and since then he has been behind bars. The charge-sheet is already filed on 26.06.2025 and no purpose would be served by keeping the appellant behind bars. The sessions trial will take too much time to commence and conclude. Until and unless the accused are convicted by the Sessions Court, they have to be treated as innocents. Since custody of the appellant is not required, he be released on bail on any condition as this Court may deem fit and proper.

5. *Per contra*, learned APP as well as learned advocate for respondent No.2/ informant stated that the appellant is involved in heinous crime. The appellant along with others had hatched conspiracy to eliminate the deceased on account of his illicit relationship with Sumaiyya. Evidence collected by the Investigating Officer goes to show *prima facie* involvement of the appellant in crime. If the appellant is released on bail, he may tamper with prosecution witnesses. Thus, both prayed for rejection of the appeal by refusing regular bail to the appellant.

6. With assistance of learned advocates for respective parties, I have gone through the material available on record as well as the charge-sheet made available by learned APP to me. *Prima facie*, the record shows that there is no direct evidence available against the appellant. Only allegation against the appellant is that he was having leg injury. At this stage, in absence of any incriminating material against the appellant, it is very difficult to connect his leg injury with commission of murder of the deceased Pramod. Since the appellant has made out *prima facie* case for grant of regular bail, I am inclined to pass the following order:-

ORDER

a) The Criminal Appeal stands allowed and the

impugned order dated 08.07.2025 is quashed and set aside.

b) In connection with Crime bearing FIR No.111/2025 registered on 01.04.2025 with Ghansawangi Police Station, District Jalna for the offences punishable under Sections 302, 201, 34 of the Indian Penal Code and Sections 3(2) and 3(V) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, the appellant shall be released on bail on his furnishing PR bond of Rs.25,000/- [Rupees Twenty Five Thousand Only] with one solvent surety/ security in the like amount.

c) The appellant shall attend the concerned police station as and when called by the Investigating Officer and shall also attend the sessions trial on the dates as may be fixed by the concerned Sessions Court.

d) The appellant shall not try to contact or pressurize the witnesses or the informant, in any manner whatsoever.

7. Since learned advocate for respondent No.2 is appointed through legal aid, her fees shall be calculated and paid to her as per rules by the High Court Legal Aid Services Sub-Committee.

8. However, it is made clear that the observations made

in this order are *prima facie* in nature for the purpose of adjudication of this appeal.

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(SUSHIL M. GHODESWAR, J.)