



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO. 1695 OF 2025

Ajay Mahesh Chounda,
Age : 25 Years, Occupation : Labour,
R/o. : Kasarshirsi, Taluka : Nilanga,
District : Latur.

... Applicant
(Orig. Accused No. 2)

VERSUS

The State Of Maharashtra,
Through Police Inspector,
Kasarshirsi Police Station, Kasarshirsi,
Taluka : Nilanga, District : Latur.

... Respondent

...

WITH
BAIL APPLICATION NO. 1696 OF 2025

Gajendra Shivraj Sarvade
Age : 30 Years, Occupation : Labour,
R/o. : Kasarshirsi, Taluka : Nilanga,
District : Latur.

... Applicant
(Orig. Accused No. 6)

VERSUS

The State Of Maharashtra,
Through Police Inspector,
Kasarshirsi Police Station, Kasarshirsi,
Taluka : Nilanga, District : Latur.

... Respondent

...

WITH
BAIL APPLICATION NO. 1664 OF 2025

Swapnil Gulab Suryawanshi
Age : 33 Years, Occupation : Education
R/o. : Kasarshirsi, Taluka : Nilanga
District : Latur

... Applicant
(Orig. Accused No. 3)

VERSUS

The State Of Maharashtra,
Through Police Inspector,

Kasarshirsi Police Station, Kasarshirsi,
Taluka : Nilanga, District : Latur.

... Respondent

...

**WITH
BAIL APPLICATION NO. 1693 OF 2025**

Dattu Maroti Gaikwad

Age : 41 Years, Occupation : Labour
R/o. : Aundha, Taluka : Nilanga,
District : Latur.

... Applicant
(Orig. Accused No. 1)

VERSUS

The State Of Maharashtra,
Through Police Inspector,
Kasarshirsi Police Station, Kasarshirsi,
Taluka : Nilanga, District : Latur.

... Respondent

...

- Mr. D. P. Munde, Advocate for Applicants in BA Nos. 1695 & 1696 of 2025
- Mr. Satej S. Jadhav, Advocate for Applicant in BA No. 1664 of 2025
- Mr. Pawar Hemantkumar F, Advocate for Applicant in BA No. 1693 of 2025
- Ms. D. S. Jape, APP for Respondent – State

...

CORAM : MEHROZ K. PATHAN, J.

RESERVED ON : NOVEMBER 12, 2025.

PRONOUNCED ON : NOVEMBER 28, 2025.

PER COURT :-

1. The applicants have filed the separate bail applications seeking regular bail in connection with First Information Report bearing Crime No. 0088 of 2025, dated 26.04.2025, registered with

Kasarshirsi Police Station, Kasarshirsi, Taluka – Nilanga, District – Latur, for the offences punishable under Sections 103(1), 189(2), 191(2), 190, 115(2), 352 of the Bharatiya Nyaya Sanhita, 2023.

2. The FIR was lodged by the informant, Gundappa Shivappa Hasure, stating that on 26.04.2025 at about 12:00 noon, while he was working in his farm, he received a phone call from his wife informing him about an assault on his nephew – Guruling Ashok Hasure, who was lying unconscious. The complainant immediately rushed towards village – Aundha, where he was informed that the villagers had taken his nephew – Guruling, to the hospital. The complainant made enquiries with the persons present at the spot, upon which Amar Pandurang Birajdar, Narsing Nivrutti Motibane, Balaji Vasant Biradar informed him about an earlier incident dated 25.04.2025, at village Aundha, wherein a scuffle had taken place between persons belonging to the Dalit community and the Maratha community, during procession on the occasion of Dr. Babasaheb Ambedkar Jayanti. However, the said dispute was settled on the same date, i.e. 25.04.2025.

3. It was further informed to the complainant that one of the villagers from Aundha, namely Dattu Maroti Gaikwad, has called the co-accused persons, namely - Ajay Mahesh Chounda, Swapnil Gulab Suryawanshi, Gajendra Shivraj Sarvade, Azahar Mohammad, Aditya

More, all residents of Kasarshirsi, along with a few other persons who had started quarreling with Yadav Dattatraya Birajdar and Umakant Balaji Patwari, regarding the incident dated 25.04.2025. It was further informed that the aforesaid accused persons started assaulting Yadav Dattatraya Birajdar and Umakant Balaji Patwari by giving kick and fist blows. When the said persons attempted to flee, the assailants chased them. As the situation escalated, the villagers also started running hither and thither.

4. The deceased – Guruling (nephew of the complainant - Gundappa), who was working in his field, unaware of the scuffle came on road to see what is going on and was allegedly caught by the assailants. On the ground that he belonged to the same village, the said assailants assaulted him and caused his death. Consequently, the present crime came to be registered at the instance of the first informant – Gundappa Shivappa Hasure (Uncle of the deceased – Guruling).

Submissions On Behalf Of Applicant – Swapnil Gulab Suryawanshi :-

5. It is the submission of the learned counsel for the applicant - Swapnil Gulab Suryawanshi, that the applicant has been falsely implicated and arrested in the present case, and that there is no credible evidence to connect him with the alleged offence. It is

submitted that the statements of the witnesses, namely Yadav Dattatraya Birajdar and Umakant Balaji Patwari, which are relied upon by the prosecution, are verbatim and identical, and were recorded two days after the incident, reflecting an afterthought with a motive to take revenge against the applicant – Swapnil. It is further submitted that although the applicant is alleged to be present during the incident dated 25.04.2025, his name has been deliberately included in the incident dated 26.04.2025, as he was about to get married a week thereafter, and the complainant party intended to implicate him owing to the prior dispute dated 25.04.2025.

6. According to the learned counsel, the main allegations of assault are primarily against the main accused - Dattu Maroti Gaikwad, who had assaulted the deceased on his stomach with fist and knee blows. Whereas, the applicant – Swapnil, is attributed only the role of holding right hand of the deceased. No weapon is alleged to have been used by the applicant, and even from a bare reading of the FIR, there appears to be no intention on the part of the applicant – Swapnil to commit the murder of the deceased – Guruling Hasure.

7. It is further submitted by the learned counsel for the applicant – Swapnil that, looking to the nature of the evidence collected by the Investigating Officer against the Applicant – Swapnil, the offence of committing murder is not likely to be proved as against him. It is

submitted that the applicant – Swapnil is not related to any person from the village and had, in fact, pacified the quarrel on 25.04.2025. The only allegation against the applicant is that he had held the right hand of the deceased, without there being any overt act attributed to him.

8. The learned counsel submits that the applicant may, therefore, be released on bail, as he is ready to abide by any stringent conditions imposed by this Court and undertakes to attend the trial regularly. The applicant – Swapnil has deep roots in the society, and therefore, there is no likelihood of his fleeing from ends of justice, or remaining unavailable for trial. It is further submitted that there are no criminal antecedents to the discredit of the applicant – Swapnil. Therefore, in this case, this Court may exercise its discretionary powers in his favour. The applicant is arrested on 03.05.2025, and as the investigation is complete and the charge-sheet has been filed, no fruitful purpose would be served by keeping the applicant – Swapnil further detained.

Submissions On Behalf Of Applicants – Ajay Mahesh Chounda And Gajendra Shivraj Sarvade :-

9. The learned counsel for the applicants in BA No. 1695 of 2025 and BA No. 1696 of 2025, appearing for the accused/applicants – Ajay Mahesh Chounda and Gajendra Shivraj Sarvade, submits that

insofar as the role attributed to the present applicants is concerned, the applicant - Gajendra is alleged to have caught hold of the deceased from behind, whereas the applicant – Ajay is alleged to have caught hold of the left hand of the deceased. It is submitted that the fatal fist and knee blows were allegedly given by the accused – Dattu Maroti Gaikwad. The applicant – Ajay is shown to have been arrested on 26.04.2025, i.e. on the date of the incident, whereas the applicant – Gajendra is shown to have been arrested on 10.05.2025.

10. It is the further submission of the learned counsel for applicants – Ajay and Gajendra that there was no intention of the applicants – Ajay and Gajendra, who are stated to have merely held the deceased by his left hand and from behind, respectively. As per the complaint, the deceased – Guruling was in his agriculture field, when he was caught unaware by the assailants. The accused /applicants Ajay and Gajendra did not use any weapon to inflict any bodily injury upon the deceased, nor are they attributed with any overt acts of giving fist or knee blows, which are specifically attributed to the co-accused Dattu Maroti Gaikwad.

11. The learned counsel further submits that the applicants – Ajay and Gajendra have no criminal antecedents against them and they have deep roots in the society and would therefore, not flee away from the ends of justice. They are ready to abide by any stringent

conditions that may be imposed by this Court. Hence, it is prayed that they may be released on bail. Since Ajay is arrested on 26.04.2025 and Gajendra is arrested on 10.05.2025, and the investigation is complete and charge-sheet is filed, further incarceration would be a pre-trial punishment.

Submissions On Behalf Of Applicant – Dattu Maroti Gaikwad :-

12. The learned counsel for the applicant in BA No. 1693 of 2025 – Dattu Maroti Gaikwad submits that, from the the statement of Balasaheb Narwate, recorded by the Investigating Officer during the course of the investigation, it could be seen that the accused/applicant – Dattu was caught on the spot on the date of incident i.e. 26.04.2025. However, the arrest panchnama shows that the the applicant – Dattu was formally arrested on 26.04.2025 at about 21:37 hrs. The learned counsel relies upon the judgment in ***Hanumant Jagannath Nazirkar v. State of Maharashtra; WP No. 54 of 2025, decided on 27.06.2025*** to contend that the arrest itself being illegal, as the applicant's constitutional right under Article 22(2) and Section 57 of the Cr.P.C. was violated, since he was not produced before the learned Magistrate within 24 hours of his actual apprehension. On this ground alone, it is submitted that the applicant may be released on bail forthwith.

13. It is the further submission of the learned counsel for the applicant that the Post-Mortem Report does not show any external injuries on the deceased. The deceased was not known to the applicant and was resident of Bahur Village, whereas the incident occurred at Aundha. There was no intention on the part of the applicant to commit murder. According to the learned counsel, the prosecution will not be able to establish the guilt of the applicant for the offence of murder.

14. It is the submission of the learned counsel for the applicant – Dattu that the Post-Mortem Report also records the probable cause of death as ‘Intracerebral Hemorrhage’. There is no external injury noted on the chest or abdomen of the deceased, and only minor operative injuries on the left knee and right hand are recorded. The alleged ‘Intracerebral Hemorrhage’ cannot be attributed to the applicant, who is alleged to have assaulted the deceased on his stomach. Thus, the medical evidence does not match the allegations levelled against the applicant regarding the nature of assault. Hence, it is submitted that this is a fit case to grant bail to the applicant – Dattu.

Submissions On Behalf Of The State / Learned APP :-

15. As against this, the learned APP submits that the present crime is a fallout of the incident that occurred on the prior date, i.e.

25.04.2025, in village Aundha, wherein a quarrel had taken place between two groups belonging to the Dalit community and the Maratha community. Though the said dispute was settled on the same date i.e. 25.04.2025, the Applicant – Dattu, again vitiated the atmosphere by entering the village on the next day and calling upon the assailants, including the applicants - Swapnil, Ajay and Gajendra. There is a specific allegation of assault against the applicant – Dattu. The eyewitnesses, namely Yadav Dattatraya Birajdar and Umakant Balaji Patwari, have specifically attributed the role of all the applicants in commission of the said crime. The learned APP further submits that several other witnesses have also spoken about the incident dated 25.04.2025, as well as the incident dated 26.04.2025, and also the role of the present applicants in forming an unlawful assembly and committing rioting in the village.

16. The learned APP further submits that the deceased – Guruling, who was present in the agriculture field, was caught tightly by the applicant – Gajendra from behind, the applicant – Swapnil held the right hand of the deceased, whereas the applicant – Ajay held the left hand of the deceased, and thereafter the applicant – Dattu delivered fist blows and knee blows to the deceased. The learned APP further submits that a perusal of the Post-Mortem Report would show that there were serious injuries in the abdomen region, indicating *'Intra-*

abdominal Bleeding of the Spleen'. She further submits that although the probable cause of death is shown as '*Intracerebral Hemorrhage*' the final opinion has been reserved and the final report are awaited after Viscera / Blood Chemical Analysis.

17. The learned APP further submits that looking to the background of the incident, if the applicants are released on bail, there is every likelihood of disturbance to the law and order situated in the village, and the possibility of the applicants committing further cognizable offence cannot be ruled out. She, therefore, prays for rejection of all the bail applications.

Consideration And Analysis By The Court :-

18. I have gone through the charge-sheet minutely, including the evidence collected by the prosecution during the course of investigation. It appears that the incident dated 26.04.2025 is a fallout of the incident that occurred on the previous day, i.e., 25.04.2025 at about 08:00 p.m., when there was a trivial quarrel in village Aundha between persons of the Dalit Community and the Maratha Community during a procession on the occasion of Bharat Ratna Dr. Babasaheb Ambedkar Jayanti. On the next day, the accused – Dattu arrived in the village and another quarrel ensued between him and the Sarpanch over the parking of a motorcycle. As the quarrel escalated, the accused – Dattu called upon the other accused

persons, who are resident of village Kasarshirsi. They arrived at village Aundha on two-wheelers and four-wheelers and immediately started assaulting the persons present there. Due to the commotion, people started running hither and thither. The accused persons then allegedly caught hold of the deceased – Guruling and assaulted him.

19. The perusal of the statements of the witnesses - Yadav Dattatraya Birajdar and Umakant Balaji Patwari, Madhav Kashinath Biradar and Amar Pandurang Birajdar, would show that the applicant – Gajendra caught hold of the deceased from behind; the applicant Swapnil caught hold of the right hand of the deceased; and the applicant – Ajay caught hold of the left hand of the deceased, whereas the accused – Dattu assaulted the deceased on his stomach with fist and kick blows, leaving him lying on the ground. The deceased was thereafter taken to the hospital, where he was declared dead.

20. Thus, from the evidence collected by the prosecution, the role that emerges as being directly attributed in causing fatal injuries is that of the accused – Dattu. The Post-Mortem Report indicates *intra-abdominal bleeding of the spleen*, as reflected in Column No. 21, which, in my opinion, constitutes grievous injury and can be attributed to the assault allegedly committed by the applicant – Dattu. Insofar as the role of the applicants – Ajay, Gajendra, Swapnil

is concerned, there is not a single overt act attributed to them of inflicting blows on the deceased. Insofar as the allegation of forming an unlawful assembly with a common object is concerned, the same will have to be proved by leading evidence before the Trial Court. As noted earlier, there was a huge commotion at the spot, and the applicants were chasing other villagers of Aundha. The deceased, who was working in his agriculture field, had merely come out onto the path to see what was happening. Thus, at least insofar as the applicants – Ajay, Swapnil and Gajendra are concerned, there does not appear to be any intention to commit his murder. The observations herein are *prima facie* in nature, made only for the purpose of deciding the present applications, and shall not have any bearing on the proceedings before any other Court.

21. The applicants – Ajay, Swapnil and Gajendra are already behind bars from the date of arrest in the month of April and May, 2025. The investigation is already complete, and the charge-sheet has already been filed. The apprehension of the prosecution regarding disturbance of law and order in the village can be addressed by imposing stringent conditions, while releasing applicants – Ajay, Swapnil and Gajendra on regular bail.

22. Before proceeding further, it is necessary to examine the submissions advanced regarding the alleged illegality of arrest raised

on behalf of applicant – Dattu Maroti Gaikwad.

23. The learned counsel for the applicant – Dattu has relied upon the statement of one Rahul Suryawanshi to contend that the applicant was apprehended on the spot by villagers and handed over to the police, and therefore ought to have been produced before the learned Magistrate within 24 hours of such apprehension. A careful reading of the said statement, however, indicates that although it mentions that applicant – Dattu (a resident of Aundha) and applicant – Ajay (resident of Kasarshirshi) were allegedly handed over to police of Kasarshirshi, the very next line clarifies that the police had taken only the injured persons, namely *Guruling Hasure, Rajabai Wade, Yadav Biradara and Siddheshwar Hasure*, in the police vehicle for treatment. There is no indication that the police had also taken the applicant – Dattu into custody at that very moment. There is, therefore, no material to infer that the applicant was actually arrested or detained at the spot.

24. In this backdrop, the reliance placed on ***Hanumant Jagannath Nazirkar (supra)*** is misplaced. The arrest panchnama demonstrates that the applicant – Dattu was arrested on 26.04.2025 at 23:37 hrs and produced before the learned Magistrate on 27.04.2025 at 05:40 p.m., i.e., within 24 hours of the recorded time of arrest. Moreover, at no point earlier did the applicant raise any grievance regarding

violation of his constitutional rights – neither at the time of production before the learned Magistrate, nor by initiating any independent proceedings regarding violation of his rights. Even during the bail proceedings before the learned Sessions Court, no such contention was raised, as could be seen from the bail application.

25. The Criminal Bail Application No. 89 of 2025, annexed as *Annexure-C* to the present proceedings, also does not disclose any pleading alleging illegal arrest. As noted earlier, except for the statement of Rahul Suryawanshi, no other witnesses' statements nor any other material corroborates the allegation that the applicant – Dattu was actually arrested at the spot. Hence, the ground of 'illegal arrest' is misconceived and devoid of merit, and therefore rejected. As stated earlier, role of Dattu is different from that of accused Ajay, Swapnil and Gajendra. Considering the role of Dattu Gaikwad in entering the village on 26.04.2025, calling other accused on phone, forming unlawful assembly, with intention of rioting and giving fatal blows on the deceased, which is corroborated by medical evidence i.e. *'Intra-abdominal Bleeding of the Spleen'*, I am not inclined to release the applicant – Dattu Gaikwad on bail.

26. Hence, I am inclined to pass the following order:-

ORDER

- I. The Bail Application No. 1664 of 2025 (Swapnil Gulab Suryawanshi), Bail Application No. 1695 of 2025 (Ajay Mahesh Chounda) and Bail Application No. 1696 of 2025 (Gajendra Shivraj Sarvade) are allowed.
- II. The Bail Application No. 1693 of 2025 filed by *Dattu Maroti Gaikwad* is hereby rejected.
- III. The applicants *Swapnil Gulab Suryawanshi, Ajay Mahesh Chounda* and *Gajendra Shivraj Sarvade* are hereby directed to be released on bail, in connection with Crime No. 0088 of 2025, dated 26.04.2025, registered with Kasarshirsi Police Station, Taluka Nilanga, District Latur, for the offences punishable under Sections 103(1), 189(2), 191(2), 190, 115(2), 352 of the Bharatiya Nyaya Sanhita, 2023, on their executing a PR Bond of ₹50,000/- (Rupees Fifty Thousand only) each, with one surety in the like amount, subject to the following conditions :-
- A) The applicants Swapnil Gulab Suryawanshi, Ajay Mahesh Chounda and Gajendra Shivraj Sarvade shall not enter the jurisdiction of Kasarshirsi Police Station, Taluka Nilanga, District Latur, till conclusion of trial, except with prior written permission of the Superintendent of Police, Latur, in case of any emergency.
- B) The applicants shall not tamper with the prosecution evidence, nor attempt to influence the witnesses in any manner. Any single reported incident involving the

applicants of violation of conditions shall entitle the prosecution to move for cancellation of bail.

C) The applicants shall furnish their residential address, contact number, and copies of his Aadhaar / PAN Cards to the Investigating Officer, and shall also provide the names, addresses, and contact numbers of their close relatives for the purpose of verification.

27. In the event, the applicants violate any of the conditions specified in this order, it shall be liable to be cancelled.

28. Needless to say, the observations made in this order are limited to the disposal of the present bail applications and the Trial Court shall proceed further in the matter without being influenced by the observations made hereinabove.

29. All the Bail Applications stand disposed of accordingly.

(MEHROZ K. PATHAN)
JUDGE