



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

**BAIL APPLICATION NO. 2336 OF 2024
WITH CRIMINAL APPLICATION NO.278 OF 2025**

Prashant Subhash Kakade
Age: 30 years, Occu.: Labour,
R/o. Asoda Road, Near to Mohan Talkies,
Jalgaon, Tq. & Dist.Jalgaon.Applicant

Versus

The State of Maharashtra
Through Police Inspector,
Shanipeth Police Station, Jalgaon,
Tq. & Dist.Jalgaon.Respondent

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Advocate for Applicant : Mr.D.R.Kale
APP for Respondent : Mr.V.M.Jaware
Advocate for Informant : Mr.M.V.Salunke

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CORAM : ABHAY S. WAGHWASE, J.

RESERVED ON : 24 JANUARY, 2025

PRONOUNCED ON : 27 JANUARY, 2025

ORDER :

1. Applicant seeks enlargement on bail in consequence to his arrest in Crime no.0119 of 2024 registered at Shanipeth Police Station, Dist.Jalgaon for offence under Sections 302, 143, 145, 147, 148, 149, 201, 202, 216 of the Indian Penal Code (IPC) and under Sections 37(1)(3), 135 of the Maharashtra Police Act, and under Sections 3 read with 25 of the Arms Act.

2. Learned counsel submitted that applicant is arrested in above crime on 23-05-2024 and alleged occurrence is of 22-05-2024. He further pointed out that applicant is not named in the FIR. That, there is no recovery at his instance. That, there are no allegations of use of any article and therefore, there is no question of recovery at his instance. That, only allegations against applicant are that he gave fist blows and that too is stated by witness, whose statement is allegedly recorded on 24-05-2024. He pointed out that ten persons are said to be involved in the assault. For above reasons, learned counsel prays for grant of bail.

3. Criminal Application No.278 of 2025 is allowed.

Strongly opposing above application, learned APP pointed out that offence of murder has been committed. That, applicant is named by eye witness. That section 149 has been invoked. That, there are allegations of forming unlawful assembly and getting armed and attacking with deadly weapons like knife, chopper etc. That, there is evidence in the form of CCTV footage. That, there is gruesome murder of informant's son on petty count of money transaction. That, deceased died due to multiple grievous injuries. For above reasons, learned APP opposed the application.

4. Heard. Perused the papers. FIR seems to be at the instance of Ashok Shrawan Sonwane at Shanipeth Police Station, Dist.Jalgaon, reporting that on 22-05-2024 at around 10:30 p.m., Amol Sonar, friend of his deceased son, telephoned him and informed that some persons have beaten his son Kishor and he is unconscious and to come at Civil Hospital, Jalgaon. There he claims that Amol Sonar narrated that, when deceased, others including present applicant were having dinner at hotel Bhanu at around 09:00 p.m., deceased Kishor received a phone call and so he went out. Shortly, it was learnt that deceased had quarreled at Chinese Hawker's stall at Kalinkamata Chowk and therefore, all went there. Quarrel between deceased and Rupesh Kakde on account of transaction of money was going on, but that was resolved and deceased Kishor was brought back at hotel Bhanu. At around 10:00 p.m., it is alleged that 8-9 persons, some of whom were known to Amol, namely Rupesh Sonar, Nilesh Sapkale, Akash Sapkale, Amol Sonwane, Mayur Koli, Durlabh Koli, Ishwar Kakde and Rupesh Kakde and 2-3 unknown persons came armed with wooden logs and sharp weapon like knife and mounted attack on Kishor. Informant claims that he learnt that his son was dragged out of hotel and assaulted there also. On examination, his son was declared dead, hence, the above report.

5. The principal grounds for bail put-forth are that, applicant is not named in the FIR, no overt act is attributed to him and there is no use of weapon alleged against him and moreover, only allegations are of giving fist blows.

6. After going through the papers placed before this Court by learned APP, it is emerging that above FIR is by father of deceased primarily on the information given by Amol Sonar. On visiting his statement, it is emerging that he was present there when the incident took place. There was said to be some quarrel between deceased and Rupesh Kakde in the backdrop of some money transaction at Kalanka Chowk somewhat at around 09:00 p.m. and after issue was resolved, deceased was said to be brought back to hotel Bhanu for dining. After one hour, it is alleged that 9-10 persons came armed with articles like sharp weapon, wooden logs etc. There are allegations that such 9-10 persons together assaulted deceased. This eye witness Amol Sonar has named present applicant specifically. After first episode of exchange of heated words between deceased and accused Rupesh, above persons seem to have come armed. Therefore, merely because allegations against present applicant are of giving fist blows and that his name is not reported in the FIR, is itself not sufficient to

grant relief of bail, more particularly, when there is said to be evidence in the form of electronic evidence. There are statements of other witnesses also, who were in the company of deceased. Post mortem report shows that deceased Kishor has suffered as many as 27 injuries including stab incise wounds all over the body and death is said to be due to “stab injury to vital organs associated with head injury”. Taking the same into account, this court is not inclined to grant relief. Hence, the following order :

ORDER

- (i) Bail Application is rejected.
- (ii) Liberty is granted to applicant to approach trial Court at a later point of time.
- (iii) Criminal Application No.278 of 2025 is disposed of.

(ABHAY S. WAGHWASE)
JUDGE