



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO. 486 OF 2025

Tausif Chhotu Khatik,
Age : 32 years, Occu: Business,
R/o. Navapur, Taluka Navapur,
District Nandurbar.

... Applicant

Versus

The State of Maharashtra,
Through Police Inspector,
Navapur Police Station,
Taluka Navapur, District Nandurbar.

... Respondent

.....

Ms. Karishma S. Sarin, Advocate for the Applicant.
Mr. V. M. Jaware, APP for Respondent-State.

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CORAM : ABHAY S. WAGHWASE, J.

Reserved on : 05.05.2025

Pronounced on : 06.05.2025

ORDER :

1. Instant bail application is in consequence to registration of crime no. 0481 of 2024 at Navapur Police Station, District Nandurbar for offences punishable under Sections 103(1), 238(a), 61, 85, 351(2) r/w 3(5) of the Bharatiya Nyaya Sanhita (BNS).

2. According to learned counsel, applicant is arrested in above crime on 13.09.2024. She pointed out that, there is no eye witness and arrest is on alleged confessional statement. That, case is based on

circumstantial evidence which is primarily weak in nature. She pointed out that, deceased allegedly went missing and same was reported to police at police station on 11.09.2024 by one Asif Chhotu Khatik i.e. husband of alleged deceased Ruksana. Learned counsel pointed out that there was some marital discord and disputes. Dead body was found after two days. There are allegations of throttling. That, such allegations are allegedly during disclosure made to police in police station and as such, the same being confessional statement, has no evidentiary value. That, initially only two were named, but subsequently six more accused are involved. That, investigation is over and charge sheet is also filed on 09.12.2024. According to learned counsel, there are no prospects of matter going for trial as charge itself is not framed. Hence, she urges for grant of bail.

3. Learned APP opposed on the ground that, serious offence is committed after hatching conspiracy. That, there is disclosure under Section 27 of the Evidence Act and dead body is recovered at the instance of present applicant. There is CCTV footage showing use of car for transporting the dead body. Statement of owner of the vehicle is recorded wherein he stated that present applicant had borrowed the vehicle. Moreover, there is CDR coupled with mobile conversation between present applicant and accused no.5. That, alleged offence is

in the backdrop of some harassment and domestic violence. That, there are WhatsApp messages.

4. After above submissions of learned APP, learned counsel pointed out that, so called WhatsApp messages are between deceased and her husband, and applicant has no concern with the matrimonial dispute.

5. Heard. Perused the papers. FIR dated 13.09.2024 is at the instance of police constable posted at Navapur Police Station, lodging report on behalf of State. He reported that, on 11.09.2024, one Asif Chhotu Khatik lodged missing report of his wife Ruksana for not being found since afternoon of 11.09.2024. That, while missing was inquired with one Kajal Ghodse, she gave statement that she had been to Ruksana's house for borrowing umbrella at 09.00 a.m., but when she went to return it back, one car was parked in front of her house, rear door was open but front door was closed and as there was no response, she kept the umbrella outside and left.

Informant further claims that, when CCTV cameras of the vicinity were watched, car bearing no. MH 04 5035 was found to be taking rounds in the front of the house of deceased and on inquiry

about the vehicle, it turned out to be of one Wasim Younus Khatik who runs a garage, and he allegedly said that, his friend Tausif Chhotu Khatik (present applicant) and Santosh Gavit borrowed the vehicle to take a round and so he had given them the said vehicle.

Informant claims that consequently, Tausif was called to police Station and he made above disclosure about going to the house of deceased, questioning her for naming him in a complaint lodged at *Jamat*, resulting into throttling Ruksana and further dumping the body in the pit after it was transported.

6. Therefore, apparently, as pointed out, whatever information has cropped up against present applicant is in alleged confessional statement to police. Only incriminating circumstances are CCTV footages, CDR and some WhatsApp messages. However, said messages are said to be *inter se* between deceased and her husband. How is present applicant concerned with alleged matrimonial dispute, is not clarified by learned APP. Apparently, case is based on circumstantial evidence. Statement of Kajal does not bring applicant in picture as she only refers of coming across a silver colour car being parked in front of the house. There is no further evidence about throttling or transporting dead body from one place to another. Now

investigation is said to be over. Chargesheet is filed in December 2024 itself. Submissions made that charge is not framed yet and future course of trial to be uncertain, has not been refuted or answered by learned APP. When no purposed is shown to be achieved by further detention, applicant succeeds. Hence, I proceed to pass the following order:

ORDER

- I. The application is allowed.
- II. Applicant be released on bail in connection with Crime No. 0481 of 2024 at Navapur Police Station, District Nandurbar, on executing Personal Bond of Rs. 15,000/- with one surety in the like amount, on the following conditions :
 - [a] The applicant shall not tamper prosecution evidence.
 - [b] The applicant shall not leave the area of jurisdiction of the concerned police station till conclusion of trial.
 - [c] The applicant shall attend the concerned police station twice in every week i.e. on every Thursday and Monday between 11.00 a.m. to 02.00 p.m. till framing of charge and thereafter, shall regularly attend each and every effective date before the trial court.

[ABHAY S. WAGHWASE, J.]