



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO. 1896 OF 2025

Akash Alias Bala Bhausahab Rathod

VERSUS

The State Of Maharashtra

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- Dr. Anagha N. Pedgaonkar, Advocate for Applicant
- Mr. V. M. Kagne, APP for Respondent - State

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CORAM : MEHROZ K. PATHAN, J.

DATED : 12.11.2025

PER COURT :

1. The applicant has filed the present application thereby praying for grant of regular bail in connection with FIR bearing Crime No. 75 of 2025, lodged at Kannad Rural Police Station, Aurangabad, for the offences punishable under Sections 103(1), 352, 351(3) and 238 of the Bharatiya Nyaya Sanhita, 2023.

2. The prosecution case, in brief, is that the informant Vasudev Rathod and his two younger brothers, Baliram and Rameshwar, reside on agricultural land bearing Gat No. 333 at Chapner, Taluka Kannad. Baliram was residing alone as his wife had gone to her parental home. Their paternal cousins, Bhundappa and Bhausahab Rathod, along with their sons also reside on the same land, and there

was an earlier dispute between the families relating to financial issues and borewell water.

3. On 22.04.2025, at about 9:30–9:45 p.m., while the informant was returning to the field, he witnessed a quarrel between Baliram and their cousin Akash Rathod near Boltek junction regarding a prior incident involving a pipe. Akash was allegedly abusing and threatening Baliram. The informant intervened and separated them, but both remained at the spot. A white Ashok Leyland loading vehicle belonging to Akash was also seen parked nearby.

4. On the next day, i.e., 23.04.2025, at about 1:00 p.m., the informant received a phone call from the village Sarpanch enquiring about Baliram. During the search, one Ganesh @ Pintu Rathod informed him that Baliram was lying near Boltek-fata. On reaching the spot, the informant found Baliram dead in a maize field with head injuries, and a large blood-stained stone was found nearby. He therefore lodged the FIR giving rise to the present crime.

5. The learned counsel for the applicant submits that there is no material connecting the applicant with the crime. The case rests solely on circumstantial evidence, which, according to her, is weak and based merely on the last-seen theory. It is submitted that as per witness Arvind Rathod, the applicant was seen with one Sudam

Rathod at a marriage, which contradicts the prosecution's last-seen theory. It is further submitted that the applicant has longstanding enmity with the complainant, and false implication cannot be ruled out. The applicant undertakes to abide by the conditions of bail, not to tamper with evidence, and seeks release on the ground that he has been in custody since 25.04.2025, the investigation is complete, and the charge-sheet has been filed.

6. As against this, the learned APP submits that the applicant is the prime accused and is directly implicated in the FIR lodged by the Vasudev Rathod, brother of the deceased. The deceased was last seen by the complainant quarrelling with the applicant over an earlier dispute. It is submitted that the complainant specifically witnessed the quarrel shortly before the incident and that both the applicant and the deceased remained at the spot thereafter.

7. The learned APP further submits that apart from the last seen theory, relied upon by the prosecution through the complainant Vasudev Rathod, real brother of the deceased, the applicant has made a phone call as to witnesses Sharad Lande and Sachin Nimbhore, immediately after committing murder. There is no enmity between the witnesses and therefore, false implication of the applicant is ruled out. He further submits that witness Sudam has specifically stated

that the deceased had parted with his company on the date of the incident after they had returned from village Tanda and were walking towards Champaner Tanda, where the deceased asked witness Sudam Rathod to proceed ahead while he himself remained at the spot. The learned APP therefore submits that there is no discrepancy between the statement of witness Arvind Rathod, as alleged by the learned counsel for the applicant, and the statement of witness Sudam. The deceased was seen with Sudam at about 07:00 p.m., whereas the deceased was seen along with the applicant by the complainant between 09:45 p.m. and 10:00 p.m., when they were quarrelling, as specifically stated by the complainant. He therefore submits that sufficient evidence has been collected by the Investigating Officer to prima facie connect the applicant with the commission of the crime.

8. I have gone through the charge-sheet, which consists of the entire evidence collected by the prosecution. A perusal thereof shows that there is a direct implication of the applicant in the First Information Report, which was lodged immediately after the funeral of the deceased. The complainant has clearly stated about the incident that occurred in the intervening night of 22.04.2025 and 23.04.2025, wherein he saw the applicant quarrelling with the deceased at about 09:45 p.m. to 10:00 p.m. at the spot of the incident. The spot panchanama records the seizure of a blood-stained

stone from the place of occurrence. The prosecution has also seized blood-stained clothes of the applicant while he was in custody. A memorandum under Section 23(2) of the *Bharatiya Sakshya Adhiniyam, 2023* was recorded on 28.04.2025, after the applicant was arrested on 25.04.2025. It is pertinent to note that immediately after the incident, the applicant had called witnesses Sachin and Sharad, informing them that some crime had been committed by him, though without disclosing details. Though the said communication may not amount to an extra-judicial confession, the statements of witnesses Sachin and Sharad, who have stated that the applicant called them immediately after the incident from his mobile number 7822904746, forms an important link in the chain of circumstances relied upon by the prosecution. Be that as it may, considering the material collected by the prosecution against the applicant, the gravity of the offence, and the fact that the applicant was arrested on 25.04.2025, I am of the opinion that no case is made out for exercising the discretion of granting regular bail at this stage.

9. Hence, the Bail Application is rejected.

(MEHROZ K. PATHAN, J.)