

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL BAIL APPLICATION NO. 491 OF 2025

Omkar @ Tanya Mahadev Kavare ... Applicant.

Vs.

The State of Maharashtra ... Respondent.

Mr. Pranav Borgave a/w. Prajwal Thorat i/b. Mr. Mayur Mane, Mr. Dhananjay Bhosale, Advocate for the Applicant.

Mr. A. A. Palkar, APP for Respondent/State.

CORAM : ASHWIN D. BHOBE, J.

DATE : 4th JULY, 2025.

P.C. :

1. Heard Pranav Borgave, learned Advocate for the Applicant and Mr. Palkar, learned APP for State.

2. By the present Application filed under section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short “BNSS”), the Applicant is seeking regular bail in Crime No. 117 of 2024 registered at Kadegaon Police Station, Sangli for the offences punishable under Section 302 read with 34 of the Indian Penal Code. Said Crime is registered as Sessions Case No. 516 of 2024.

3. Case of the prosecution is that Rahul, son of the Informant was found dead in the fields on 25th May, 2024. Body of the deceased was found at about 10 a.m. on the said day.

Applicant and his brother Gorakh were last seen with the deceased on the previous day i.e. 24th May, 2024 at 8 a.m. The deceased had injury marks on the body and wooden stick/PVC pipe were found near the body.

4. Applicant (Accused No. 1 and his brother Gorakh (Accused No.2) were arrested on 25th May, 2024, since then they are in jail. Application at Exh. 5 in Sessions Case No. 516 of 2024 filed by the Applicant was rejected by the learned Additional Sessions Judge, Vita.

5. Mr. Pranav Borgave, learned Advocate for the Applicant submits that there is no material on record to indicate the Applicant being involved in the present crime. He submits that the Applicant has been implicated in the present crime on the basis of the statement made by Ganesh Kumbhar who claims to have last seen the Applicant with the deceased. He submits that even if the said statement of Ganesh Kumbhar is considered, then the Applicant is allegedly last seen on 24th May, 2024 at 8 a.m., that would be more than 24 hours from the body of the deceased being found. He submits that no recoveries have been made from the Applicant. He submits that the Applicant is in jail only on the basis of the last seen theory. He submits that the Applicant is labourer and there are no criminal antecedents against the Applicant.

6. Mr. Palkar, learned APP for the State submits that the Applicant was last seen with the deceased. He submits that the investigation has revealed that the Applicant was in search of an axe on 24th May, 2024. He submits that no recoveries are made from the Applicant.

7. I have perused the record with the assistance of the learned Advocates for the parties.

8. Case of the prosecution is based on circumstantial evidence. Investigation record does not indicate any recoveries being made from the Applicant. Prosecution case against the Applicant is based on the last seen theory. Even if the same is considered, the Applicant is alleged to have been last seen with the deceased almost 24 hours prior to the body of the deceased being located. Body of the deceased was found in an open field. Prosecution does not claim the injuries on the body of the deceased to be injuries caused by a dangerous weapon like an axe. Nature of allegations and considering the material on record, at the most would raise a suspicion against the Applicant. Suspicion however, grave cannot substitute proof. Prosecution will have to prove and establish the circumstances relied upon during trial. The material brought on record prima facie does not support the allegations against the Applicant. As stated by Mr. Borgave, Applicant does not have any criminal antecedents. In view of the above, incarceration of the Applicant pending the trial would not

be warranted. Applicant is therefore, entitled to bail.

9. In view of the above, Application is allowed on the following conditions :

- (a) Applicant be released on bail in Crime No. 117 of 2024 registered with Kadegaon Police Station, Sangli upon furnishing P.R. Bond in the sum of Rs. 25,000/- with one or two sureties in the like amount to the satisfaction of the learned Additional Sessions Judge, Vita.
- (b) Applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing the facts to Court or any Police Officer. The Applicant shall not tamper with evidence.
- (c) The Applicants upon release within 3 days shall furnish their residential addresses with proof and contact details to the Trial Court and to the Investigating Officer, Kadegaon Police Station, Sangli.
- (d) Applicant shall attend each and every date of hearing before the learned Additional Sessions Judge, Vita in Sessions Case No. 516 of 2024, unless exempted.

10. Bail Application No. 491 of 2025 is disposed of.

(ASHWIN D. BHOBE, J.)