

AGK

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

BAIL APPLICATION NO.107 OF 2025

Jitesh Ashok Shekde

... Applicant

V/s.

The State of Maharashtra

... Respondent

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Mr. Ashok Shekade for the applicant.

Mr. Prasanna P. Malshe, APP for the respondent-State.

Mr. Sumitkumar S. Nimbalkar, for original complainant.

Ms. Anuradha M. Meher, PSI, Boisar Police Station, Palghar, is present.

CORAM : AMIT BORKAR, J.**DATED : JULY 14, 2025****P.C.:**

1. By the present application filed under Section 483 of the Bhartiya Nagarik Suraksha Sanhita, 2023 (for short, "BNSS"), the applicant seeks his release on regular bail in connection with Crime Register No.286 of 2024 registered with Boisar Police Station for offences punishable under Sections 109, 115, 352, and 351(2) of the Bhartiya Nyaya Sanhita, 2023 (for short, "BNS"), as well as Sections 3(5) and 4(25) of the Arms Act, 1959.

2. The prosecution case, in brief, is that on 1st July 2024, at about 9:05 p.m., the informant Mahesh was standing and conversing along with his friend Karim and the present applicant Jitu outside Sahadev Kirana Shop. During this casual interaction,

the applicant, allegedly in jest, uttered abusive words referring to the informant's mother and sister. When the informant objected and asked him to refrain from using such language, the applicant allegedly left the spot saying that he would return with his mother and then see the informant. It is the case of the prosecution that at around 9:20 p.m., the applicant returned to the same spot riding a motorcycle along with his brother, co-accused Rajaram alias Raja, who was allegedly armed with a knife. It is alleged that both the applicant and co-accused Rajaram started abusing and assaulting the informant. During the said incident, co-accused Rajaram is stated to have inflicted knife blows on the informant's stomach and near the waist area, uttering threats to kill him. The injured informant was then taken to Ravi Surgical Nursing Home, where he underwent surgical treatment for his injuries.

3. Learned Advocate appearing for the applicant submitted that the role attributed to the applicant is limited to having called and brought the co-accused Rajaram to the spot. It is submitted that it was the co-accused who actually inflicted grievous injuries on the body of the informant by using a sharp-edged weapon, and not the applicant. It is further submitted that the applicant has no criminal antecedents to his discredit and has been in custody since 3rd July 2024. It is also submitted that considering the nature of allegations, the trial is not likely to conclude in the immediate future, and the continued incarceration of the applicant would amount to pre-trial punishment. On these grounds, the applicant has prayed for grant of regular bail.

4. On the other hand, learned APP has opposed the bail application by relying on the nature and gravity of the offence. It is submitted that the present incident is a serious one wherein the injured sustained grievous injuries due to a knife assault. It is further submitted that there is an eye-witness to the incident who has specifically attributed a role to the applicant, namely, that the applicant facilitated and aided the assailant by bringing him to the spot, which led to the violent attack on the informant. Though it is not alleged that the applicant himself wielded the weapon, his active involvement in bringing the assailant and being present at the scene forms part of a premeditated act of unlawful assault. Therefore, it is submitted that the applicant does not deserve the discretionary relief of bail at this stage.

5. I have considered the rival submissions of the learned Advocate for the applicant and the learned APP for the State. I have also perused the FIR, the medical papers of the injured informant, and the statements of the witnesses.

6. At the outset, it is to be noted that the actual assault on the informant is alleged to have been carried out by co-accused Rajaram @ Raja, who is stated to have inflicted multiple injuries by means of a knife. The role attributed to the present applicant is of having brought the said co-accused to the spot and of having accompanied him during the alleged assault. No overt act of actual physical assault or use of any weapon is attributed to the applicant himself.

7. The offence under Section 115 read with Section 109 of the BNS, though serious, would require detailed trial to determine the applicant's exact degree of involvement and whether there was any prior meeting of minds, amounting to criminal conspiracy or abetment of the assault. These aspects would require appreciation of evidence at the stage of trial. As of now, it appears that the applicant's presence and conduct immediately prior to the assault is being relied upon by the prosecution to attribute a constructive role.

8. It is not the case of the prosecution that the applicant has a criminal record or that he is likely to tamper with evidence or influence witnesses, if released on bail. He has been in custody since 3rd July 2024, and considering the nature of the alleged role, continued pre-trial detention, particularly when the trial is not likely to commence in the near future, may not be justified.

9. In such circumstances, the Court is of the view that the custodial interrogation of the applicant is no longer necessary, and his further incarceration would not serve any fruitful purpose. Appropriate conditions can be imposed to secure his presence at trial and to ensure that he does not tamper with the prosecution evidence.

10. Hence, following order is passed:

- i) The bail application is allowed;
- ii) The applicant is directed to be released on regular bail in connection with Crime Register No.286 of 2024 registered with Boisar Police Station for offences punishable under

Sections 109, 115, 352, 351(2) of Bhartiya Nyaya Sanhita, 2023 and under Sections 3(5) and 4(25) of the Arms Act, upon furnishing a personal bond of Rs.25,000/- (Rupees Twenty Five Thousand Only) with one or more solvent sureties in the like amount, to the satisfaction of the Trial Court, subject to the following conditions:

- a) The applicant shall report the Boisar Police Station on first Monday after every three months between 10.00 a.m. to 12.00 noon, until further orders.
- b) The applicant shall not tamper with the evidence or attempt to influence any witness.
- c) The applicant shall appear before the Trial Court on every date of hearing unless prevented by sufficient cause.
- d) The applicant shall not leave the territorial jurisdiction of the Trial Court without prior permission.
- e) The applicant shall not indulge in any criminal activity during the pendency of the trial.
- f) Any breach of these conditions shall result in the prosecution moving for cancellation of bail before the Trial Court.

11. The bail application is allowed and disposed of.

(AMIT BORKAR, J.)