

Nikita

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

BAIL APPLICATION NO.223 OF 2025

Rahul Appasaheb Lohar ... Applicant

V/s.

The State of Maharashtra ... Respondent

Mr. Amit Icham a/w Mr. Pratik Kalantri for the Applicant.

Ms. M. H. Mhatre, APP for the State.

Mr. Pathare, API, MIDC Bhosari Police Station, Pune.

Mr. Birajdar, MIDC Bhosari Police Station, Pune.

CORAM : ASHWIN D. BHOBE, J.

DATED : 14th AUGUST, 2025

P.C.:

1. Heard Mr. Amit Icham, learned Advocate for the Applicant and Ms. M. H. Mhatre, learned APP for the State.

2. By the present application under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023, Applicant is seeking bail in connection with C. R. No.333 of 2023 registered with MIDC Bhosari Police Station, PimpriChinchawad for the offences punishable under Sections 302, 504 and 506 of the Indian Penal Code, 1860. Said crime is registered as Sessions Case No.1222 of 2023 and is pending before the Court of Additional Sessions Judge Pune.

3. Applicant is sole Accused in the present crime.
4. FIR was lodged at the instance of the informant Bijanabi Inamul Khan (mother of the deceased). Case of the prosecution is that on 02.08.2023, Istaq Khan (deceased) along with the Applicant and other persons were consuming liquor in a barren field situated at Moshi of Bankar. At that time, deceased Istaq took a bite on the right side neck of the Applicant and stated that he wants to sip his blood. Applicant annoyed by the said act of the deceased Istaq, assaulted deceased Istaq with a stone. Istaq succumbed to the injuries.
5. Applicant was arrested on 03.08.2023, since then the Applicant is in jail. Bail Application at Exhibit-5 filed by the Applicant in Sessions Case No.1222 of 2023 was rejected by the Additional Sessions Judge Pune on 22.05.2024.
6. Mr. Amit Icham, learned Advocate for the Applicant submits that the offence alleged is an act which is out of fit of rage. He submits that the Applicant on account of the bite on his neck by deceased Istaq, got annoyed and at that moment assaulted deceased Istaq. He submits that the statements of the so called eye-witness Vishal Kamble is inconsistent. He submits that in the statement of Vishal Kamble, under Section 164 of the Cr. P.C., he claims that the Applicant have assaulted the deceased Istaq by fist and blows whereas in the statement to the Police he has alleged that the Applicant used stone to assault deceased Istaq. He submits that till date charge is not framed in Sessions Case No.1222 of 2023 .

7. Ms. M. H. Mhatre, learned APP for the State submits that Vishal Kamble, the eye-witness in his statement under Section 161 of the Cr. P.C. has made a reference to the Applicant assaulting deceased Istaq by use of stone. She fairly states that in the statement under Section 164 of the Cr. P. C., Vishal Kamble has not made reference to assault by stone, but has vaguely made a reference to the stone being found near the body of the deceased Istaq. She submits that the Applicant has antecedents.

8. In rejoinder, Mr. Amit Icham, learned Advocate for the Applicant submits that the none of the criminal antecedents are in respect of the bodily offence.

9. I have perused the records with the assistance of the learned Advocate for the parties.

10. Informant in her statement dated 03.08.2023, has made reference to the following:

"त्यावेळी तेथे असलेल्या विशाल कांबळे याने मले सांगतिले कि 'ईश्वर एडके , अक्षय दुनघव हे दोघेजण दारू पिऊन आले होते. त्यावेळी ईश्वर एडके याने सांगतिले कि, आम्ही दारू पिऊन बनकर याचे शेतामध्ये बसलो असता तेथे इस्ताक इनामुल खान हा राहुल लोहार याला म्हणाला कि, मला तुझे रक्त प्याचे आहे असे म्हणून त्याचे गळ्याला चावा घेतला आहे असे म्हणून मी व व अजय दुनघव त्याठिकाणावरून निघून आलो असल्याचे सांगतिले व ते माझे जवळून निघून गेले."

11. There are no allegations of the act of the Applicant being a premeditated act. Material on record indicates that the incident happened at the spur of the moment, perhaps due to the act of the deceased Istaq biting on the neck of the Applicant.

12. Considering the nature of the allegations and the material on record, coupled with the fact that the Applicant is in jail since

03.08.2023 and till the charge not being framed in Sessions Case No.1222 of 2023, further incarceration of the Applicant as under trial is not warranted. Applicant is therefore directed to be released on bail.

13. In view of the above, the present Bail Application is allowed, on the following conditions:

- a) Applicant is directed to be released on bail in connection with C. R. No.333 of 2023 registered with MIDC Bhosari Police Station, Pimpri Chinchawad on his furnishing PR bond in the sum of Rs.25,000/- with one or two sureties in the like amount to the satisfaction of Additional Sessions Judge-13, Pune.
- b) Applicant shall attend and regularly appear before the Additional Sessions Judge-13, Pune in Sessions Case No.1222 of 2023 on each date of hearing, unless specifically exempted by the Court.
- c) Applicant shall report to the Investigation Officer, Bhosari Police Station, Pimpri Chinchawad on the first Saturday of every month from 10.00 am to 12.00 noon till the framing of charge.
- d) Applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with facts of the case so as to dissuade them from disclosing the facts to the Court or any police officer and shall not tamper with evidence.

e) Applicant upon his release, within 3 days shall furnish to the Investigation Officer, Bhosari Police Station, Pimpri Chinchawad his residential address with proof and the contact number and to keep the Investigation Officer intimated about the change in the same from time to time.

14. Bail Application No.223 of 2025 is allowed in the above said terms.

(ASHWIN D. BHOBE. J.)