



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.**

CRIMINAL APPLICATION (BA) NO.138 OF 2025

(Roshan @ Bhaiya s/o Chandansingh @ Bandusingh Khambre (Rajput) Vs. The State of Maharashtra and anr.)

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Mr. A.B. Patil, Advocate for the applicant.
Mr. M.K. Pathan, APP for the State.

CORAM:- URMILA JOSHI-PHALKE, J.
DATED :- FEBRUARY 27, 2025.

Heard.

2. By this application, the applicant is seeking bail as he came to be arrested on 11/12/2024 in connection with Crime No.213/2024 registered with police station Malkapur, District Buldhana for the offence punishable under Sections 109, 118(1)(2), 125, 126(2), 189(2), 190, 191(2)(3), 324, 351(2)(3) and 61(2) of the Bharatiya Nyaya Sanhita, 2023.

3. The crime is registered on the basis of report lodged by Mahendrasingh Shivilalsingh Rajput on an allegation that there was a dispute between his family members and the accused on account of construction on a drainage and on that count he as well as his father were assaulted by the present applicant and the other co-accused. On the basis of the said report, police have registered the crime against the present applicant.

4. Learned Counsel for the applicant submitted that as far as the role of the present applicant is concerned which is only to the extent of assault by fist and kick blows, in view of the statement of the injured. He submitted that though it is mentioned in the FIR that present applicant has assaulted by means of iron rod but the statement of the witnesses are contrary to this. Now, investigation is completed and charge-sheet is filed, further incarceration of the present applicant is not required and the injured are also not under the apprehension of death. Considering all these aspects, the applicant be released on bail.

5. Learned APP strongly opposed the application on the ground that the applicant is the member of an unlawful assembly and in furtherance of the common object of that assembly the injured are assaulted, therefore, even if only presence of the present applicant is also sufficient to attract the provisions against the present applicant. In view of that, the application deserves to be rejected.

6. I have heard learned Counsel for both the parties. Perused the investigation papers especially the statements of the witnesses it reveals that there is a variance in the statement of the informant as well as the statements of the other witnesses. As per the recitals of the FIR, present applicant has assaulted by means of iron

rod on the legs of the father of the informant whereas the statement of the injured and other witnesses shows that he has assaulted by fist and kick blows. Even accepting the involvement of the present applicant in the assault and considering the medical certificate and the injured are already discharged from the hospital and there is no apprehension of death, considering the same, the application deserves to be allowed. Accordingly, I proceed to pass the following order:

- (i) The application is allowed.
- (ii) The applicant – Roshan @ Bhaiya s/o Chandansingh @ Bandusingh Khambre (Rajput) in connection with Crime No.213/2024 registered with police station Malkapur, District Buldhana for the offence punishable under Sections 109, 118(1)(2), 125, 126(2), 189(2), 190, 191(2)(3), 324, 351(2)(3) and 61(2) of the Bharatiya Nyaya Sanhita, 2023, be released on bail on executing PR. bond of Rs.25,000/- with one solvent surety in the like amount.
- (iii) The applicant shall not enter into the vicinity of village Datala, Taluka Malkapur, District Buldhana till culmination of the trial.
- (iv) The applicant shall attend the proceedings before the Sessions Court

without seeking any exemption unless there are exceptional circumstances.

(v) The applicant shall not induce, threat or promise any witnesses who are acquainted with the facts of the case in any manner either personally or by way of electronic media.

7. The contravention of any of the condition imposed by this Court, would lead to the cancellation of bail.

8. The application is disposed of.

(URMILA JOSHI-PHALKE, J.)

**Divya*