



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

CRIMINAL APPLICATION (BA) NO.150 OF 2025

(Akash s/o Shivkumar Gupta Vs. State of Maharashtra)

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

Court's or Judge's Order

Mr. U.P. Dable, Advocate for the applicant.
Ms S.S. Dhote, APP for the State.

CORAM:- URMILA JOSHI-PHALKE, J.
DATED :- MARCH 28, 2025.

By this application, the applicant is seeking bail as he came to be arrested on 18/08/2024 in connection with Crime No.672/2024 registered with Police Station Gittikhadan, Nagpur, District Nagpur for the offences punishable under Sections 103(1), 109(1) and 3(5) of the Bharatiya Nyaya Sanhita, 2023.

2. Learned Counsel for the applicant submitted that the present applicant is arraigned as an accused on an allegation that he and other co-accused has assaulted the deceased by means of cement tiles on his head and deceased died after one month. He submitted that the FIR is lodged against the unknown persons. During investigation, though the Investigating Officer has collected the CCTV footage but the said CCTV footage nowhere shows that the present applicant was seen assaulting the deceased. He further submitted that the statements of the eye-witnesses are there and only one eye-witness has disclosed the name of the present

applicant but he has also not seen them assaulting, he has seen them quarrelling with them. Moreover, TI parade is also not held as far as the other eye-witnesses are concerned. He further invited my attention towards the fact that the statement of the eye-witness was recorded after eight days of the said incident. Thus, considering the entire investigation, at this stage, there is no link which the Investigating Officer has established to connect the present applicant with the alleged offence. Now, the investigation is already completed and charge-sheet is already filed, further incarceration of the applicant is not required. In view of that, he be released on bail.

3. Learned APP strongly opposed the application and submitted that the present applicant is seen in a CCTV footage in a suspicious condition proceeding on the motorcycle. One of the eye-witness i.e. Chandraprakash Kalbande has seen the present applicant quarrelling with the deceased and deceased was found injured at the spot of incident. The other eye-witnesses have also stated about the assault on the deceased. Thus, there is a *prima facie* material against the present applicant. In view of that, the application deserves to be rejected.

4. I have heard learned Counsel for both the sides. Perused the investigation papers from which it reveals that though the Investigating Officer has recorded the statements of the eye-witnesses but only one eye-witness has stated the name of the present applicant.

Other eye-witnesses were not acquainted with the present applicant and the other co-accused. As far as the statement of the said Chandraprakash Kalbande is concerned which is recorded by the investigating agency after 10 days of the incident and he has only seen the present applicant quarrelling with the deceased. As far as the assault is concerned he only stated that one of the person has assaulted the deceased by means of cement tiles. So he has also not stated against the present applicant who has assaulted the deceased by means of cement tiles. Thus at this stage, the link appears to be incomplete as far as the investigation papers are concerned; moreover, there is no TI parade also. At this stage, the appreciation of the evidence is not required; however, considering the nature of the investigation, the applicant has made out a case for grant of bail. In view of that, the application deserves to be allowed. Accordingly, I proceed to pass following order:

(i) The application is allowed.

(ii) The applicant - Akash s/o Shivkumar Gupta in connection with Crime No.672/2024 registered with Police Station Gittikhadan, Nagpur, District Nagpur for the offences punishable under Sections 103(1), 109(1) and 3(5) of the Bharatiya Nyaya Sanhita, 2023, be released on bail, on executing P.R.

Bond in the sum of Rs.25,000/- with one solvent surety in the like amount.

(iii) The applicant shall not enter into the jurisdiction of Gittikhadan, Nagpur police station till culmination of trial.

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

(v) The applicant shall furnish his detailed address with address proof and the names of his two relatives with their address proof, before the investigating agency.

(vi) The applicant shall attend the proceedings before the Sessions Court without seeking any exemption unless there are exceptional circumstances.

5. The application stands disposed of.

(URMILA JOSHI-PHALKE, J.)

**Divya*