



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL APPLICATION (BA) NO. 228 OF 2025

Mogra Jan Guru Khushi Jan 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. S.V. Sirpurkar, counsel for applicant.

Mrs. S.S.Dhote, APP for non-applicant/State.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 25/03/2025.

1. By this application, the applicant is seeking bail under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 in connection with Crime No. 13/2025 registered with police station Malkapur City, District Buldhana for the offence punishable under Section 18 of the Transgender Persons (Protection of Rights) Act, 2019 and Section 103(1) of Bhartiya Nyaya Sanhita, 2023.

2. The crime is registered on the basis of the report lodged by Jitendra Shashikant Patil, who is working as Police Patil of the Dharangaon, Tah. Malkapur District, Buldhana. On an allegation that on 07/01/2025 at about 8.00 a.m., when he was proceeding from the agricultural field, he received the information that dead body of one transgender was lying in the agricultural field of Eknath Kisan Khadase in Gat No. 20. He immediately proceeded towards the spot of incident and witnessed one transgender person who had sustained the injuries and was lying in the agricultural field. He has immediately

informed the police, on the basis of the said report, the crime is registered against the unknown person.

3. During the investigation, the investigating officer has recorded the statement of one maid servant, who is working with another transgender, namely Mogra. As per her statement, she heard the present applicant and other co-accused communicating with each other as to the assault. Besides this, the prosecution placed reliance on the spot panchanama and Post Mortem Report and other material to connect the present applicant with the alleged offence.

4. Learned counsel, Mr. S.V. Sirpurkar for the applicant, submitted that, from the reply filed by the State, it reveals that, except that witness, there is no other material to connect the present applicant with the alleged offence. Moreover, the present applicant is suffering from a heart ailment, and she is suggested for angiography. Though she is referred by jail authorities for angiography, the medical officer from the GMCH Hospital directed to produce her on 22/04/2025.

He submitted that even on merits, except the statement of maid servant, there is no other material to connect the present applicant with the alleged incident. This case is based on circumstantial evidence, there should be a chain of circumstances. At this stage, considering the nature of the evidence, the present applicant be released on bail.

5. The learned APP strongly opposed the said application on the ground that the maid servant has specifically stated in her statement that she had contacted the present applicant and another co-accused, who were in communication with each other. The investigation is still in progress and therefore, the application deserves to be rejected.

6. On hearing both sides and on perusal of the investigation papers, admittedly, the FIR has been lodged against the unknown person. Besides the statement of the maid servant, there is no other material connected during the investigation to show the connection of the present applicant. Though the investigation is still in progress, but considering the nature of the material connected during the investigation, at this stage, no prima facie-case is made out against the present applicant. Merely, there are criminal antecedents is not sufficient to reject the application of the present applicant. In view of that, I proceed to pass the following order.

- a] The criminal application is **allowed**.
- b] The applicant – Mogra Jan Guru Khushi Jan, shall be released on bail in connection with Crime No. 13/2025 registered with police station Malkapur City, District Buldhana for the offence punishable under Section 18 of the Transgender Persons (Protection of Rights) Act, 2019 and Section 103(1) of

Bhartiya Nyaya Sanhita, 2023, on furnishing PR. Bond of Rs. 25,000/- with one solvent surety in the like amount.

- c] The applicant shall attend the concerned police station twice in a week on Monday and Thursday between 10.00 a.m. to 01.00 p.m and shall cooperate with the investigating agency.
- d] The applicant shall not leave the jurisdiction of the Malkapur City without prior permission of the District Court, Malkapur.
- e] The applicant shall not induce, threat or promise any witnesses, who are acquainted with the facts of the case.
- f] The applicant shall also attend the proceeding before the Sessions Court without seeing any exemption unless there are exceptional circumstances.

7. The criminal application is **disposed of**.

[URMILA JOSHI-PHALKE, J.]