



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

CRIMINAL APPLICATION (BA) NO.429 OF 2025
(Nagesh s/o Shriram Solanke 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. A.S. Londhe, Advocate for the applicant.
Ms S.S. Dhote, APP for the State.

CORAM:- URMILA JOSHI-PHALKE, J.
DATED :- MAY 6, 2025.

By this application, the applicant is seeking bail as he came to be arrested on 28/11/2024 in connection with Crime No.423/2024 registered with Police Station Hiwarkhed, District Akola for the offences punishable under Sections 103(1) and 3(5) of the Bharatiya Nyaya Sanhita, 2023.

2. The crime is registered on the basis of report lodged by the wife of the deceased on an allegation that on 27/11/2024 at about 5:30 PM her husband was under the influence of liquor and was abusing, and therefore, so many persons gathered there. At the relevant time, he has also abused the persons who were gathered there, and the present applicant and the other co-accused assaulted him by means of fist and kick blows on his private part and due to that assault he succumbed to the death. On the basis of the said report, police have registered the crime against the present applicant.

3. Learned Counsel who appeared through video conferencing and submitted that there was no intention to cause the death of the deceased but it was the deceased who instigated the present applicant, and therefore, the alleged incident has taken place. The statement of the witnesses also shows that there was a grave and sudden provocation at the instance of the deceased, and therefore, the alleged incident has taken place. The statement further shows that when he was assaulted, he lost his control, and therefore, he fallen on the ground near the drainage and sustained injuries and thereafter has not regained the consciousness. Thus, he submitted that there was neither intention nor any motive to commit such offence. The alleged incident has taken place as the deceased was abusing. As far as further incarceration of the applicant is concerned which is not required. The applicant has not used any weapon. Now, the investigation is already completed and charge-sheet is filed. In view of that, the applicant be released on bail.

4. Learned APP strongly opposed the application and submitted that the wife and son of the deceased are the eyewitnesses of the incident. It reveals that the deceased was assaulted mercilessly by the present applicant in which his death is caused, and therefore, the application deserves to be rejected.

5. I have heard learned Counsel for both the sides. On perusal of the investigation papers it reveals that

the applicant and the deceased are the resident of the same village. On the day of incident, as deceased came under the influence of liquor at his house and was sitting on the varanda and abusing the persons due to which several persons gathered there. In the said incident, the deceased had also abused the present applicant and his two brothers, and therefore, the deceased was assaulted by fist and slaps. In the said incident, as per the statement of the eye-witnesses deceased lost his control and fallen on the drainage, wherein he sustained injury and died on the spot. Thus, considering the circumstance under which the alleged incident has taken place. At this stage, it would not be appropriate to say that there was an intention or only knowledge was there, but considering the circumstance under which the alleged incident has taken place, the applicant has made out a case for grant of bill. Accordingly, I proceed to pass the following order.

(i) The criminal application is allowed.

(ii) The applicant - Nagesh s/o Shriram Solanke in connection with Crime No.423/2024 registered with Police Station Hiwarkhed, District Akola for the offences punishable under Sections 103(1) and 3(5) of the Bharatiya Nyaya Sanhita, 2023, be released on bail on executing P.R. Bond of Rs.25,000/- with one solvent surety in the like amount.

(iii) The applicant shall not enter into the vicinity of village Hingni (Bu.), Taluka Telhara, District Akola, till culmination of the trial.

(iv) The applicant shall furnish his detailed address along with the address proof where he is intending to reside after he is released on bail, before the investigating officer.

(v) 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.

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

6. The criminal application is disposed of.

(URMILA JOSHI-PHALKE, J.)

**Divya*