



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

CRIMINAL APPLICATION(BA) NO. 765 OF 2025

Sanjay Uttam Shivankar Vs. State of Maharashtra

Office notes, Office Memoranda of
Coram, appearances, Court's orders
Judge's Orders.
or directions and Registrar's orders.

Court's or

Mr.Sangram Sirpurkar a/w Mr. Mohan Agrawal, counsel for
the applicant.
Mr. Ujjawal Phasate, APP for the State.

CORAM : MRS. VRUSHALI V. JOSHI, J.

DATE : 22/09/2025

1. By this application, the applicant has prayed for regular bail in Crime No.87 of 2025 registered with Police Station Andhera, district Buldhana for the offences punishable under Sections 281, 103(1), 109(1) of Bharatiya Nyaya Sanhita, 2023, Section 184 of the Maharashtra Motor Vehicles Rules, 1989 and Section 65(a) and 65(e) of the Maharashtra Prohibition Act, 1949.

2. It is the case of the prosecution that on 23.03.2025, head constable, Police Station Andhera District Buldhana namely, Rameshwar Andhale has lodged the complaint against this applicant. Police constable Bhagwat

Ganesh Giri received information that one person namely, Sanjay Shivankar was carrying illicit liquor for the purpose of sale purchase on his motor cycle. Accordingly, a complainant and his colleague followed the applicant who was riding his motor cycle. At that time, when the complainant and Bhagwat Giri were trying to stop the present applicant, he intentionally kicked their motor cycle by his right leg with force. Due to the said kick, the vehicle of the complainant lost balance and he fell down. The complainant got injured, whereas, Bhagwat Giri, who was driving the vehicle succumbed to death due to head injury. He immediately, informed such incident to police station and First Information Report was registered.

3. The learned counsel appearing for the applicant has stated that though the offence under Section 103(1) is registered, the intention and knowledge was not there, which are the necessary ingredients of offence under Section 103(1) of the BNS, 2023. The allegations about kicking the vehicle and felling down are there. At the most, Section 105 of the BNS, 2023 will attract against this applicant, the homicidal death not amounting to murder. The crimes are registered against the applicant under the Maharashtra Prohibition Act. Though he had kicked, his intention was not there to commit murder. The applicant is in jail since last six months, hence prayed to release him on bail.

4. The learned APP has opposed the application stating that at the stage of bail, it cannot be considered, whether the homicidal death is amounting to murder or not.

5. The learned APP has relied on the judgment of this court in **Criminal Appeal No.800 of 2023 (Jagannath Pralhad Navale Vs. State of Maharashtra and anr.)** dated **06/02/2025**, wherein this Court has rejected the bail, observing that at the stage of the bail, this concept cannot be considered whether it amounts to murder.

6. Learned APP has stated that the crimes are registered against the applicant. He was absconding and when the police tried to chase him, he has committed said offence. Hence, prayed to reject the application.

7. Heard the learned counsel appearing for the applicant and the learned APP.

8. On perusal of First Information Report, it appears that the first informant and the deceased were chasing the applicant and to save himself from the clutches of the police, he kicked the vehicle. There is substance in the submission made by the learned counsel for the applicant that offence

under Section 105 will attract and the punishment for the offence under Section 105 is up to 10 years.

9. The intention to commit a murder of the applicant cannot be gathered at this stage. He was saving himself from the clutches of the police. Though the learned APP has relied on the order of this Court in the said case, The murder was committed by stabbing. It was in a spur of moment and which is not the situation in the case in hand. In the instant case the facts are different. Considering the act of this applicant, the case is made out to release the applicant on bail.

10. Accordingly, I pass the following order:

i) Criminal application is allowed.

ii) Applicant- Sanjay Uttam Shivankar be released on bail in connection with Crime No.87 of 2025 registered with Police Station Andhera district Buldhana for the offences punishable under Sections 281, 103(1), 109(1) of Bharatiya Nyaya Sanhita, 2023, Section 184 of the Maharashtra Motor Vehicles Rules, 1989 and Section 65(a) and 65(e) of the Maharashtra Prohibition Act, 1949 on his

furnishing P.R. Bond in the sum of Rs. 25,000/- (Rupees Twenty Five Thousand only) with one surety in the like amount.

iii] The applicant shall not in any way tamper with the prosecution evidence.

iv] The applicant shall not pressurize or threaten the prosecution witnesses.

v] The applicant shall co-operate the investigation officer.

11. The Criminal Application stands **disposed of** accordingly.

JUDGE