



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

CRIMINAL APPLICATION (APPP) NO. 1665 OF 2025
IN
CRIMINAL APPLICATION (BA) NO.854 OF 2025

Ashwin Alias Buntly s/o Rajesh Sallamwar 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.C. Jaltare, counsel for applicant.

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

Mr. R.P. Joshi, counsel for Assist to prosecution.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 26/08/2025.

1. The brother of the deceased has filed an application seeking permission to engage the counsel to assist the prosecution.
2. In view of the reasons mentioned in the application, permission is granted to engage the counsel to assist the prosecution.
3. The criminal application (APPP) No. 1665 of 2025 is disposed of.

CRIMINAL APPLICATION (BA) NO. 854 OF 2025

1. The applicant came to be arrested on 16/10/2024 in connection with Crime No. 804 of 2024 registered at Police Station Chandrapur City, District Chandrapur, for the offence punishable under Sections 103(1), 189, and 3(5) of Bhartiya Nyaya Sanhita, 2023, and Sections 4 and 25 of the Arms Act.

2. The crime is registered on the basis of a report lodged by the informant by name Harish Arewar, who is the elder brother of the deceased Aryan. As per the case of the prosecution on 15/10/2024 around 9.00 pm, the deceased returned to his home from the immersion of the goddess, at that time people from the locality informed the informant that the present applicant, along with his associates, was assaulting the deceased by means of a knife and wooden log. Therefore, immediately, the informant rushed to the place where he had seen the present applicant and other co-accused running from the spot, and the deceased was lying in a pool of blood. The younger sister of the informant, by name Shivani, was crying at the spot and informed the informant that the present applicant, alongwith his associates, assaulted the deceased by means of a knife and wooden log. On the basis of the said report, police have registered the crime against the present applicant.

3. Heard learned counsel for the applicant, who submitted that there are inconsistent statements as far as the investigation is concerned. Section 161 of Cr.PC. statement, the role of assaulting by means of a knife is attributed to the other co-accused, whereas in the statement under Section 183 of the BNS, the said role is attributed to the present applicant.

4. He further invited my attention towards the statements of the witnesses and submitted that, as per the statements, it was the co-accused who had thrown the

knife towards the deceased, and the deceased had sustained the injuries. He also invited my attention towards the P.M. Report and submitted that none of the injuries were caused due to the act of the present applicant. Now, the investigation is already completed, charge-sheet is already filed, and further incarceration of the applicant is not required.

5. The learned APP and learned counsel for the complainant strongly opposed the same on the ground that the complainant and other prosecution witnesses have approached the Superintendent of Police, contending that their statements recorded under Section 161 were not recorded properly. They alleged that it was the present applicant who inflicted a knife blow on the deceased, and therefore, they stated that the statement recorded under Section 164 (Section 183 of BNS) is the correct one.

6. Learned APP also invited my attention towards various statements of the witnesses, including the statement of the eyewitness, which shows the specific role is attributed to the present applicant. He also pointed out that the deceased was chased by the present applicant and other co-accused, and thereafter, he was assaulted, which is sufficient to show the intention of the present applicant and the other co-accused. The death of the deceased is caused by multiple injuries sustained by the deceased, i.e., due to hemorrhagic shock due to a stab

injury over the left thigh, and prays for rejection of the application.

7. On hearing both sides and on perusal of the investigation papers, it is noted that the FIR was lodged on the basis of the information received by the informant—Shivani, who is also an eyewitness to the incident. Shivani, the sister of the deceased, has categorically stated the specific role played by the present applicant in the commission of the offence. Her statement further reveals that the deceased was chased by the applicant and thereafter he was assaulted. The statements that are recorded by the magistrate under Section 183 of the BNS specify the role of the present applicant. As far as inconsistency in the statement is concerned, all prosecution witnesses, including the eyewitness Shivani, have filed an application before the Superintendent of Police, stating that the statements recorded by the police are not as per their narration, and the Superintendent of Police is requested to inquire into matter.

8. Moreover, the P.M. report shows that the deceased has sustained as many as four injuries, including perforating stab wound present over the posterior aspect of left thigh, of size 4cm x 1.5 cm x muscle deep, margin clean cut, perforating, underlying muscle, femoral artery, vein, and nerves, and exiting over the anterior aspect of left thigh, 22 cm below the left anterior superior iliac spine, blood infiltrated, and reddish. The death of the deceased is also due to injury caused by the knife. As far

as the inconsistent statement is concerned, the application was filed by the prosecution witness, which requires to be inquired by the Superintendent of Police. The intention of the applicant is revealed from the sequence of the events, wherein the deceased was chased by the applicant and others. The subsequent assault, carried out in furtherance of their common intention, clearly demonstrates premeditated involvement in the commission of the offence.

9. In view of the above facts and circumstances, the application deserves to be rejected. Accordingly, I proceed to pass the following order.

ORDER

The criminal application stands **rejected**.

[URMILA JOSHI-PHALKE, J.]