



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

CRIMINAL APPLICATION(BA) NO.999 OF 2025

Umesh Shiva Shinde Vs. State of Maharashtra

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

Court's or Judge's Orders.

Mr.A.S.Mardikar Senior Advocate a/b Mr.Yash Bhelande,
counsel for the applicant.
Mr.C.A. Lokhade, APP for the State.

CORAM : MRS. VRUSHALI V. JOSHI, J.

DATE : 13/11/2025

1. The applicant was arrested in Crime No. 23 of 2025 registered by the Police Station, Talegaon, Amravati for the offence punishable under Sections 103(1), 238 and 61(2) of Bharatiya Nyaya Sanhita, 2023.

2. It is alleged that on 29.01.2025 at around 9.00 p.m. the elder son informed the complainant that he had received phone call from his friend informing that the younger brother of the complainant i.e. deceased Manoj has met with an accident and he is lying on the road in the pool of blood along with his vehicle. It is alleged that the applicant was having illicit relations with the wife of the deceased and therefore, it is suspected that the applicant

must have committed the said offence and therefore, the crime was registered.

3. The learned counsel for the applicant has stated that there is no circumstance to connect the applicant with the offence. Only CCTV footage shows that, the applicant was last seen with the deceased. Only on the said suspicion, the applicant was arrested. The statement of the son of the deceased also shows that the applicant was having friendly relations with the deceased. It also appears that the applicant and deceased were having contacts with each other on phone. As nothing is there to connect the applicant with the crime, hence prayed to release the applicant.

4. Learned APP opposed the application stating that there was recovery of the clothes of the applicant. He had thrown the clothes in the well. The last seen theory is applicable as the applicant was seen in CCTV footage with the deceased. He was with him at the petrol pump and thereafter, he came alone. Considering the circumstances, the involvement of the applicant is shown, hence prayed to reject the application.

5. Heard both the sides and perused the record.

6. It appears from the record that the offence is based on the circumstantial evidence. Earlier, it was only the

accident and because of suspicion the crime is registered against this applicant. The applicant has relied on the judgment of this Court, in the case of Criminal Application (BA) No.534 of 2023 (Yogesh Subhashrao Bhakre Vs. State of Maharashtra, dated 12.07.2023, wherein the bail was allowed, it is observed that:

“9. It is well settled by a catena of decisions that undoubtedly, “last seen theory” is an important link in the chain of circumstances that would point towards the guilt of the accused with some certainty. The “last seen theory” holds the courts to shift the burden of proof to the accused and the accused to offer a reasonable explanation as to the cause of death of the deceased. It is well settled by this Court that it is not prudent to base the conviction solely on “last seen theory”. “Last seen theory” should be applied taking into consideration the case of the prosecution in its entirety and keeping in mind the circumstances that precede and follow the point of being so last seen.”

10. In the light of the above well settled legal position, in the present case admittedly postmortem is silent regarding the probable time of death. The dead body was found next day in the evening, there is a long time gap and there is no investigation to explain the said time gap by the Investigating Officer. At this stage, except the last seen theory there is no material against the present applicant to

connect him With the alleged offence. Considering the nature of the material which is available against the applicant to connect him, the applicant has made out the case for releasing on bail.....”.

7. On perusal of the record, it appears that no circumstance is there to connect the accused with the offence. CCTV footage only indicates the probability of involvement of the applicant, when they were last seen together.

8. Considering the allegations made against this applicant and the circumstances, on the basis of the suspicion, the liberty of the applicant cannot be curtailed. Accordingly, I pass the following order:

i) Criminal application is allowed.

ii) Applicant- Umesh Shiva Shinde be released on bail in connection with Crime No. 23 of 2025 registered by the Police Station, Talegaon, Amravati for the offence punishable under Sections 103(1), 238 and 61(2) of Bharatiya Nyaya Sanhita, 2023 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.

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

10. Pending application/s if any, is/are stand/s disposed of.

JUDGE