



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

CRIMINAL APPLICATION (BA) NO. 1246/2025

Kalu s/o. Shenduraja Pawar Vs. State of Maharashtra

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. R. M. Daga, Advocate for the Applicant.
Mr. N. R. Rode, A.P.P. for the Non-applicant/State.

CORAM : MRS.VRUSHALI V. JOSHI,J.

DATED : 18/12/2025.

. Heard.

2. The applicant is arrested in Crime No.413/2025 for the offences punishable under Sections 103(1), 118(1), 126(2) and 3(5) of the Bharatiya Nyaya Sanhita, 2023.

3. The deceased is real brother of accused No.1 and the applicant. It is alleged that due to family dispute, the quarrel took place and all these three persons assaulted the deceased with wooden stick. The allegations are made against this applicant are that, he had assaulted with wooden stick on his head and the deceased died due to head injury. The other co-accused have also assaulted the deceased, but as per the First Information Report, they assaulted on the other parts of body. The crime is registered against all the three persons.

4. The learned Counsel for the applicant has stated that the applicant is in jail since 25.04.2025. The First Information Report says that the assault was on the head of the deceased by this applicant. Two other co-accused are released on bail. While granting bail, the trial Court has observed that the assault was not on head, it was on other parts of the body. The learned Counsel for

the applicant took me through the statement of the eye witness, wherein he stated that all the three persons assaulted the deceased on head and other parts. As the role of of this applicant is similar to co-accused, who are already released on bail, ground of parity is available to the applicant. The postmortem report shows that there was no external injury on head. The ground of parity is available. Hence, prayed to release the applicant on bail.

5. The learned A.P.P. opposed the application stating that this is a case of direct evidence. The wife of the deceased has mentioned the role of this applicant that he has assaulted from back side on the head of the deceased. Other witnesses have already stated about assault on head. The opinion of the Doctor is that the injury can be caused because of assault by said wooden bamboo stick, therefore, the case is made out against this applicant. Hence, prayed to reject the application.

6. Heard the learned Counsel for the applicant and the learned A.P.P. for the State.

7. Though the First information Report shows the role of this applicant that he assaulted from back side on the head of the deceased, the statement of the first informant under Section 164 of the Code of Criminal Procedure wherein she has stated that all the persons have assaulted with stick on his head and all over the body. Therefore, it cannot be gathered from the statement of the witnesses that the applicant has only assaulted on head. Other co-accused, who are the brothers of the deceased are already released on bail. Considering the role of this applicant, the ground of parity is available. Hence, the

case is made out to release the applicant on bail. Accordingly, I proceed to pass the following order :

- i] The criminal application is allowed.
- ii] The applicant shall be released on bail in connection with Crime No.413/2025 for the offences punishable under Sections 103(1), 118(1), 126(2) and 3(5) of the Bharatiya Nyaya Sanhita, 2023, on furnishing P.R. Bond of Rs.25,000/- with one solvent 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 attend the concerned police station on every Monday and Saturday between 1:00 p.m. to 2:00 p.m.
- vi] The applicant shall co-operate the investigation officer.

The Criminal application is disposed of accordingly.

(MRS. VRUSHALI V. JOSHI, J.)