



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

CRIMINAL APPLICATION (BA) NO.404 OF 2025

Naresh alies Narendra Kamadi

Vs.

State of Maharashtra, through Police Station Officer, Police Station Mul,
District Chandrapur

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

Court's or Judge's orders

Mr. C. S. Dharmadhikari, Counsel for the applicant.

Ms. M. A. Barabde, APP for non-applicant/State.

CORAM : URMILA JOSHI-PHALKE, J.

DATED : 29/04/2025

1. The applicant came to be arrested on 14.10.2024 in connection with Crime No.385/2024 registered with Police Station Mul, District Chandrapur for the offence punishable under Sections 103(1), 189(2), 191(2), 191(3), 190, 109, 61(2) of the Bharatiya Nyaya Sanhita, 2023 and under Section 4 and 25 of the Arms Act.

2. The crime is registered on the basis of report lodged by Bandu Parasram Kamadi on an allegation that the idol of Goddess Sharda was installed in the locality of Panchsheel Ward, Mul by its residents. On 13.10.2024 a communal feast was also organized for the residents of the locality. Ar around 8.30 p.m. during the feast, Baban Kamadi arrived at his house and witnessed the two-wheeler of the

applicant parked in front of the gate of his house, which was made in difficult to take his vegetable cart inside his house. Therefore, he moved the two-wheeler of the applicant aside and on that count, there was a quarrel between the present applicant and said Baban Kamadi. The abuses were given by the present applicant and at the relevant time, the other persons also came there to pacify the quarrel. The wife of the present applicant also came there and threatened all the persons, who intervened in the quarrel that they have to face consequences as they intervened in the quarrel and thereafter everybody was dispersed from the spot of incident. At about 10.15 p.m. co-accused Manisha, her two brothers and three unknown persons came in front of the house of Baban Kamadi gave him a call and the quarrel turned into a violent confrontation between the two parties and in the course of which the brother-in-law of the applicant assaulted Prem Charan Kamadi, Swapnil Subhash Deshmukh and Avinash Chandrabhan Kamadi with sharp weapons and in the said incident death of Prem Kamdi occurred. On the basis of the said report, police have registered the crime against the present applicant and the other co-accused.

3. Heard learned Counsel for the applicant who submitted that as far as the first incident is concerned, which was due to the parking of the vehicle by the present applicant in front of the house

of one Baban Kamadi and from the recitals of the FIR nowhere it reveals that the present applicant has either threatened the deceased or the informant or said Baban Kamadi. It was the wife of the present applicant against whom the allegation is made that she has threatened the informant and the said Baban Kamadi as to face the consequences. He further invited my attention towards the second incident and submitted that the presence of the present applicant at the time of incident is not narrated either by the informant or any of the eye witnesses. There is no allegation that present applicant has used any weapon and was involved in the actual assault when the assault was made by the brother-in-law of the present applicant. The statements of the eye witnesses also nowhere disclose about the presence of the present applicant. He submitted that as per the allegation of the prosecution, the present applicant had the conspiracy and in pursuance of the said conspiracy, the death of the deceased Prem Kamadi was caused. He submitted that even CDR report shows that there are three calls by the wife to the present applicant and one by his brother-in-law. As far as the present applicant is concerned, he has neither given a call to any of the accused or there is any communication between them. Thus, as far as the conspiracy is concerned, there is absolutely no material to connect the present applicant to show that in pursuance to the said conspiracy, the co-accused have assaulted the deceased and the

other injured. Thus, considering the entire investigation papers on record, nothing is recovered from the present applicant. More over he was not present at the spot of incident and when the second incident has taken place. As far as the allegation against the present applicant is regarding the first incident, which is to the extent of abusing by the present applicant to the said Baban Kamadi. Thus, considering the entire investigation, the involvement of the present is not in the actual incident of causing the death of the deceased or causing the injuries to the injured. Thus, considering the entire material, the applicant be released on bail as he is shouldering the responsibility of his small daughter of two years, who is suffering from cerebral palsy and there is nobody to look after.

4. Learned APP strongly opposed the said application and submitted that admittedly there is no communication between the present applicant and his brother-in-law, but it is the wife of the present applicant who has called, and therefore, it cannot be said that the applicant was not involved in the said conspiracy. She submitted that the entire incident was occurred at the instance of the present applicant. In the second incident, though he was not present, but as the present applicant had parked the vehicle in front of the house of Baban Kamadi and thereafter the alleged incident has taken place. The wife of the present applicant threatened said Baban Kamadi and

the persons who came there to intervene the quarrel and thereafter she called her bother and the death of the deceased is caused by giving a blow by knife by the co-accused, and therefore considering the involvement of the present applicant in a grievous offence, the application deserves to be rejected.

5. On hearing both sides and on perusal of the investigation papers, it reveals that the alleged incident has taken place on account of parking of the vehicle by the present applicant in front of the house of the said Baban Kamadi and the first incident was of abusing to each other. The said quarrel was rescued by the persons, who were present at the spot of incident for the purpose the said feast. The second incident has taken place at about 10.15 p.m. at that time, admittedly none of the eye witnesses disclosed that the present applicant was present. The CDR report also nowhere shows that it was the present applicant, who has called his brother-in-law or the wife. As far as the participation in criminal conspiracy is concerned, admittedly no direct evidence would be available to show the participation in criminal conspiracy, but there has to be some evidence on record to show that his participation was in the criminal conspiracy. As far as the entire nature of the incident is concerned, which shows that the first incident has occurred suddenly and the second incident has occurred as the wife of the present applicant has called her bother, and thereafter the

deceased and the injured were assaulted by the brother of the co-accused Manisha. Thus, considering the nature of the entire investigation papers, which nowhere shows the involvement of the present applicant in the actual incident of assault. Now the investigation is already completed, charge-sheet is filed and the applicant is shouldering the responsibility of his small daughter, who is suffering from cerebral palsy, the applicant has made out a case for grant of bail. Accordingly, I proceed to pass following order:

ORDER

- (i) The application is allowed.
- (ii) The applicant **Naresh alies Narendra Kamadi** shall be released on bail in connection with Crime No.385/2024 registered with Police Station Mul, District Chandrapur for the offence punishable under Sections 103(1), 189(2), 191(2), 191(3), 190, 109, 61(2) of the Bharatiya Nyaya Sanhita, 2023 and under Section 4 and 25 of the Arms Act, on executing PR bond in the sum of Rs.25,000/- with one solvent surety in the like amount.
- (iii) The applicant shall not enter into the vicinity of Panchsheel Ward Mul, Taluka Mul, District Chandrapur, till the culmination of trial.
- (iv) The applicant shall not induce, threat or promise any witnesses who are acquainted with the facts of the case.
- (v) The applicant shall attend the proceeding before the Sessions Court without

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seeking any exemption unless there are exceptional circumstances.

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

The application is disposed of.

(URMILA JOSHI-PHALKE, J.)