



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

CRIMINAL APPLICATION (BA) NO. 658 OF 2025

(Shri Kishor S/o Parsharam Kambale

Vs.

State of Maharashtra, Police Station Officer, Police Station Mangrulpir,
Tah. Mangrulpir, Dist Washim.)

Office Notes, Office Memoranda of Coram, Appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders
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Mr. Kaustubh Deogade, Advocate for the Applicant.

Mr. D.V. Chauhan, PP a/w Mr. N.R. Rode, APP for the Non-applicant/State.

CORAM: URMILA JOSHI-PHALKE, J.

DATED : 8th AUGUST, 2025

1. The Applicant came to be arrested on 06.12.2024, in connection with Crime No. 788/2024 registered with Police Station Mangrulpir, District Washim for the offence punishable under Sections 103(1) and 3(5) of the Bhartiya Nyaya Sanhita, 2023.

2. The crime is registered on the basis of the report lodged by one Sheikh Irfan Sheikh Husen on an allegation that on 05.12.2024 at about 09.00 p.m., he shut the shop and thereafter went to his house and he heard the noise of crying, and therefore, he came near the Nath Vidyalaya courtyard and the witness said that one Sikandarkhan Altabkhan was in an injured condition, on inquiring with him he disclosed that the co-accused Baban and the present Applicant assaulted him, thereafter he has shot the video at the said place. 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, except the oral dying declaration, there is no other material to connect the present Applicant with the alleged offence. The oral dying declaration is inconsistent with the mobile pen drive panchnama, which discloses that only the other two co-accused were seen coming from the gate and the present Applicant was not seen. He further invited my attention towards the statement of the witnesses especially the statement of the wife of the co-accused Baban Maghade and the child witness, which also nowhere discloses the name of the present Applicant. Now, investigation is already completed charge-sheet is already filed, further incarceration is not required. In view of that, the Applicant be released on bail.

4. Learned APP, strongly opposed the said Application on the ground that considering the act of the present Applicant which was in furtherance of the common intention, the oral dying declaration sufficiently shows his involvement in the alleged offence. In view of that, the Application deserves to be rejected.

5. On hearing both the sides and on perusal of the investigation papers, it reveals that on earlier day there was dispute between the deceased and the co-accused Baban. Allegedly on that count, the deceased was assaulted. There is no dispute as to the fact that the deceased has sustained 11 injuries on his person and death of the deceased was due to the head injury. As far as the oral dying declaration is concerned, which only refers the general statement that the

present Applicant has also assaulted the deceased. The stick was recovered at the instance of the co-accused and the query report shows that no blood stains was found on the said stick. The statements of the witnesses especially the statement of Lata Baban Maghade also shows the presence of the present Applicant and Gopal Ingole to the extent of consuming liquor and after consuming liquor it is alleged that the present Applicant left for home. The statement of the child witness Soham Baban Maghade also nowhere discloses the name of the present Applicant. Thus, considering the nature of the evidence except the oral dying declaration which is inconsistent with the other evidence, there is no other material to connect the present Applicant with the alleged offence. Now, investigation is already completed charge-sheet is already filed, further incarceration is not required. In view of that, the Application deserves to be allowed. Accordingly, I proceed to pass the following order.

ORDER

- i. The Application is **allowed**.
- ii. The Applicant – Kishor S/o Parsharam Kambale in connection with Crime No.788/2024 registered with Police Station Mangrulpir, District Washim for the offence punishable under Sections 103(1) and 3(5) of the Bhartiya Nyaya Sanhita, 2023, be released on bail, on executing P.R. Bond in the sum of Rs.50,000/- (Rs. Fifty Thousand) with one solvent surety in the like amount.

- iii. The Applicant shall not enter into the vicinity where the witnesses are residing especially Ashok Nagar, Mangrulpur till culmination of the trial.
 - iv. The Applicant shall not induce, threat or promise any witnesses who are acquainted with the facts of the case either personally or by way of electronic media.
 - v. The Applicant shall attend the proceedings before the Sessions Court without seeking any exemption unless there are exceptional circumstances.
 - vi. The above observations are only for the purpose of bail and the Trial Court shall not be influenced by the same.
6. Pending application/s, if any, shall stand disposed of accordingly.

(URMILA JOSHI-PHALKE, J.)