



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

CRIMINAL APPLICATION (BA) NO.881/2025

(Kailash S/o Suresh Sahu and another Vs. State of Maharashtra, through Police Station Officer, P.S. Nagpuri Gate, Amravati)

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 applicants.
 Mr. V.A. Thakare, A.P.P. for non-applicant/State.

CORAM: MRS.VRUSHALI V. JOSHI, J.

DATED: 16.9.2025.

Heard.

2. The applicants are arrested in Crime No.82/2025 for the offence punishable under Sections 103(1), 189(2), 190, 191(2) and 191(3) of the Bhartiya Nyaya Sanhita and Section 135 of the Maharashtra Police Act.

3. It is alleged that both these applicants along with other co-accused assaulted the deceased and the deceased died when he was taken to hospital.

4. The eye witnesses have informed about it to the brother of the deceased, who has lodged the complaint.

5. The learned Advocate for the applicants has stated that initially in F.I.R. name of these applicants is not mentioned. On next day, the statements of eye witnesses was recorded and they have mentioned the names and role of these applicants and they were taken in custody. The role played by these applicants is mentioned as they gave fist blows to the deceased. He died due to injuries sustained by knife. One Abhishek has assaulted the deceased on his leg with knife. There was no stab injuries on any other part.

6. Learned Advocate for the applicants has relied on the order of the Hon'ble Apex Court in Vikram Jagdish Shete V/s. State of Maharashtra and another in support of his argument that if the name of the accused is not mentioned in F.I.R. and the accused is chargesheeted and the allegations about instigation are there, the applicants cannot be detained in custody and bail has to be granted. The applicants have also relied on the orders of this Court in Criminal Bail Application No.847/2021 (Dinesh S/o Baburao Sawarkar V/s. State of Maharashtra) and 927/2025 (Nikhil Rajram Shelote V/s. State of Maharashtra). In both the cases, considering the role played by the applicants, they were released on bail.

7. Learned A.P.P. opposed the application stating that the brother of the deceased has given statement and stated that deceased has narrated him the incident about assault by all the accused persons. Father of deceased is one of the witnesses in the previous offence and, therefore, there was motive to commit the murder. Considering the role played by these applicants and as the offence under Section 190 of B.N.S. is there, the same role is attributed to these applicants as that of main accused. Hence, prayed to reject the application.

8. The learned Advocate for the victim and first informant has opposed the application stating that deceased himself has stated about the role of these applicants. The murder is committed and eye witnesses are there. Considering the role of these applicants, this is not a fit case to release the applicants on bail. Hence, prayed to reject the application.

9. Heard the learned Advocates for the parties and perused the record.

10. The eye witnesses, who were knowing the applicants, have not mentioned the names of these applicants initially and in the F.I.R. the names of these applicants are mentioned later on, on the statements of eye witnesses. The role attributed to these applicants is of giving fist blows. The statements of the eye witnesses are not recorded immediately. It is recorded on next day. The complainant has relied on the statement of the brother of the deceased, who has stated that deceased has narrated him about the assault by these applicants and role of these applicants. His statement was recorded on 4.3.2025. The incident took place on 2.2.2025. Thus, there is delay in recording the statements of eye witnesses.

11. Considering the role played by these applicants and considering authorities cited by the applicants, the application is allowed. The applicants are released on bail on regular conditions.

12. Accordingly, I pass the following order:-

- i) Criminal application is allowed.
- ii) Applicants Kailash S/o Suresh Sahu and Sanket S/o Devidas Sahu be released on bail in Crime No.82/2025 for the offence punishable under Sections 103(1), 189(2), 190, 191(2) and 191(3) of the Bhartiya Nyaya Sanhita and Section 135 of the Maharashtra Police Act, on their furnishing P.R. Bond in the sum of Rs.25,000/- (Rupees Twenty Five Thousand only) each with one solvent surety in the like amount.
- iii) The applicants shall not in any way tamper with the prosecution evidence.
- iv) The applicants shall not pressurize or threaten the prosecution witnesses.
- v) The applicants shall co-operate with the Investigation officer.

vi) The applicants shall not enter Amravati District except to attend the Court till the completion of trial.

(MRS. VRUSHALI V. JOSHI, J.)