



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

CRIMINAL APPLICATION (BA) NO.930/2025

uresh Kohale Vs. State of Maharashtra, through P.S.O.P.S. Warud, Tq. Warud, Distt. Amravati)

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

Court's or Judge's orders

Mr. S.V. Sirpurkar and Mr. D.S. Sirpurkar, Advocates for the applicant.
 Mr. V.A. Thakare, A.P.P. for the non-applicant/State.

CORAM: MRS.VRUSHALI V. JOSHI, J.

DATED: 4.12.2025.

The applicant is arrested in Crime No.255/2025 for the offence punishable under Sections 103(1), 118(2), 352, 351(2), 351(3) and 3(5) of the Bharatiya Nyaya Sanhita.

2. It is the case of prosecution that there was property dispute between the applicant and the deceased and injured. They are cousins. This applicant has assaulted Ravindra and Vijay Kohale. Both sustained injuries. Ravindra sustained incised wounds on scalp. Initially the offence under Section 118 of B.N.S was registered. The incident took place on 7.4.2025 and the injured died on 25.5.2025. After his death, the offence under Section 103(1) of B.N.S. was registered.

3. The learned Advocate for the applicant has stated that though the offence under Section 103(1) of I.P.C is registered this is not a case of murder. The injured died after one and half months of the said incident. On the date of incident itself he was discharged. The cause of death is 'cardiac Tamponade' which is not caused because of injuries. Only one grievous injury is mentioned in the injury certificate. The intention of the applicant was not to commit murder. The offence under Section 103 B.N.S. will not be made out against this applicant. Medical papers show that the deceased refused to

take medical treatment. As the offence under Section 103(1) of B.N.S. will not be attracted, hence, prayed to release the applicant on bail.

4. The learned A.P.P. opposed the application stating that family dispute was there. The assault was with Sattur. The deceased Ravindra had grievous injury on his scalp. Though death is after one and half month it is because of said injury and hence prayed to reject the application.

5. Heard both sides and perused the record.

6. On perusal of F.I.R. it appears that initially the offence under Section 118 of B.N.S. is registered. After one and half months the injured died. On perusal of the postmortem report it is seen that the cause of death is 'cardiac Tamponade'. The history of replacement of heart valve of the applicant is there. The death of the injured cannot be connected with the injuries caused to the deceased. The offence under Section 118 of B.N.S. will be *prima facie* attracted as the other injured is having grievous injury. The investigation is completed and charge sheet is filed. The offence under Section 103(1) of B.N.S. will not be attracted. Reliance is placed on the judgment of this Court in the case of Wasudeo Dhonduji Mohe and others V/s State of Maharashtra (Criminal Application (BA) No.1136/2025 and the observations made in the case of *B.N. Kavatakar and another V/s. State of Karnataka* reported in **1994 Supp (1) SCC 304**. Considering the postmortem report the offence under Section 324 of I.P.C. will be attracted is the view taken by the Hon'ble Apex Court. Considering the cause of death and *prima facie* the offence under Section 103 B.N.S. will not be attracted, case is made out to release the applicant on bail.

- i) Applicant - Bhushan Suresh Kohale be released on bail in in Crime No.255/2025 for the offence punishable under Sections 103(1), 118(2), 352, 351(2), 351(3) and 3(5) of the Bharatiya Nyaya Sanhita, on furnishing PR. Bond in the sum of Rs.50,000/- (Rupees Fifty Thousand only) with solvent surety in the like amount before the trial Court.
 - ii) The applicant shall not in any way tamper with the prosecution evidence.
 - iii) The applicant shall not pressurize or threaten the prosecution witnesses.
 - iv) The applicant shall co-operate with the learned trial Judge in the conduct of the trial.
7. The Criminal Application stands disposed of accordingly.

(MRS.VRUSHALI V.JOSHI, J.)