



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

CRIMINAL APPLICATION (ABA) NO. OF 2025

Shaikh Mustak Shaikh Musa

..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. Z.Z. Haq, Advocate for the applicant.
Ms. Sapkal, A.P.P. for Non-applicant /State.

CORAM : RAJ D. WAKODE, J.
DATED : 26.12.2025.

Heard learned Counsel appearing for the applicant
and learned Additional Public Prosecutor appearing for the
non-applicant/State.

2. Apprehending the arrest at the hands of the Police
in connection with the Crime No.0248 of 2025 registered
with Sonala Police Station, District Buldhana for the offence
punishable under Sections 109, 118(1), 125, 125(a),
125(b), 189(2), 189(3), 189(4), 190, 191(2), 191(3), 298,
300 of the Bharatiya Nyaya Sanhita (BNS), 2023, the
applicant praying for grant of pre-arrest bail by way of
present application.

3. Learned Counsel for the applicant has pointed out
the recitals of the FIR. The allegation is that on 04.10.2025
immersion procession of Durga Devi was going on at
Bawanbir village, Taluka Sangrampur, District Buldana. At
that time, the mob including applicant/accused have pelted
stones on the procession. Some of them have received
grievous hurts. Therefore, the FIR was registered against the
present applicant as well as 34 persons, and the allegations

are completely general in nature. There were no specific allegations against the present applicant/accused. The offence of Section 109 of the BNS, 2023 has been imposed against the present applicant and other co-accused.

4. Learned Additional Public Prosecutor appearing for the State strongly opposes the application contending that the offence is very serious in nature and has caused disturbance to the public law and order. She further submits that investigation is at the preliminary stage and release of the applicant on bail may result in tampering of the witnesses and may create hurdle to the Investigating Officer for collecting the videos of the incident as available and recorded by the villagers in their mobile handsets.

5. Having heard both the learned Counsel and perused the FIR. After perusal of the recitals of the FIR I am of the considered opinion that the allegations in the FIR though are serious but are completely generalized in nature. When an offence under Section 109 of the BNS, 2023 (Section 307 of the Indian Penal Code) is alleged, specific allegations regarding the weapon used, the nature of the injury and the number of blows inflicted are essential ingredients to attract the offence under Section 109 of the BNS, 2023. Law is well settled that mere naming of a person in the FIR without supporting material giving details active participation is not sufficient to deny the concession of anticipatory bail. The only anxiety has been expressed by the learned Sessions Court while rejecting the bail application of the present applicant is that the possibility cannot be ruled out that the videos of the incident which are available with the villagers in the mobile phones, could not

be collected by the Investigating Officer because of the indulgence of the present applicant/accused, if he is released on bail. The aforesaid anxiety shall be taken care of by imposing strict condition upon the present applicant. ,

6. Upon specific query to the learned APP about the recovery to be made or confrontation to other accused persons during the interrogation, there is no such reason or recovery pointed out at the behest of the applicant. Also the fact remains that out of 34 accused persons, more than 12 accused persons were already released on bail and some even by this Court.

7. In view of the above, I am inclined to grant ad-interim protection to the present applicant. Hence, I proceed to pass the following order :

- (a) Issue notice to the Non-applicant/s, returnable on 16.01.2026. Learned A.P.P. waives notice on behalf of Non-applicant/State.
- (b) In the event of arrest the Applicant/Accused Shaikh Mustak Shaikh Musa in Crime No.0248 of 2025 registered with Sonala Police Station, District Buldhana for the offence punishable under Sections 109, 118(1), 125, 125(a), 125(b), 189(2), 189(3), 189(4), 190, 191(2), 191(3), 298, 300 of the Bharatiya Nyaya Sanhita (BNS), 2023, be released on ad-interim anticipatory bail on his furnishing P.R. bond of Rs.25,000/- with one or two sureties in the like amount.
- (c) The applicant/accused is hereby directed not to

enter into the limits of the village Bawanbir, Taluka Sangrampur, District Buldhana during the pendency of the present application.

- (d) The Applicant shall attend concerned Police Station as and when called by the Investigating Officer to facilitate the investigation.
- (e) The Applicant/Accused shall co-operate with the Investigating Agency.
- (f) The Applicant/accused shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case, as also shall not tamper with the evidence.
- (g) The applicant/accused shall not indulge in any activity or in the similar type of offence.
- (h) Breach of either of condition would give rise to the prosecution to move this Court for cancellation of bail.

(RAJ D. WAKODE, J.)

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