IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO. 1561 OF 2026

SAMSA OJAMA VASAVE
VERSUS
THE STATE OF MAHARASHTRA

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Advocate for Applicant : Mrs. Rutuja Jakhade – Kulkarni h/f. Mr. Suniket Anil Kulkarni
APP for Respondent - State : Mr. D. J. Patil

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CORAM : HITEN S. VENEGAVKAR, J.

DATED : 12th OCTOBER, 2026

PER COURT :

1. The applicant seeks regular bail under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023, in connection with Crime No. 60 of 2026 registered at Molgi Police Station, District Nandurbar, for the offences punishable under Sections 310(2), 311 and 351(2) of the Bharatiya Nyaya Sanhita, 2023. He was arrested on 5th April, 2026. The charge-sheet has been filed and the matter is stated to be pending as Sessions Case No. 68 of 2026 before the Sessions Court at Shahada.

2. The prosecution states that the informant Pravin Ramesh Solanke had agreed to engage a person named Ajay as a farm labourer and had paid him an advance. At Ajay's request, the informant and his friend Naresh Vijay Phuke travelled to Dab to

bring him to their village. On the morning of 18th March, 2026, Ajay took them towards Molgi, where six to seven persons riding two motorcycles intercepted their car. One of them held a knife to the informant's neck and entered the car, while others occupied the rear seat. The informant and his friend were taken to another place, where cash of Rs.6,000/- and their two mobile phones were forcibly taken. They were threatened with death if they approached the police. The report was lodged on the following day.

3. Learned Advocate for the applicant submits that the applicant was not named in the first information report and was not previously known to the informant. He submits that no completed test identification parade connects the applicant with the occurrence, that the investigation is complete and that further custodial interrogation is unnecessary. He disputes the evidentiary value of the alleged recoveries and submits that the applicant's implication requires scrutiny at trial. The applicant is a labourer residing at Gaman, has a fixed place of residence and is willing to attend the trial and comply with conditions. His prayer is that continued detention is unnecessary in these circumstances.

4. Learned APP submits that the offence was a planned dacoity committed at knife point and that the applicant was its

organiser. The prosecution attributes to him the acts of arranging the participation of the other accused, driving the informant's vehicle and distributing the stolen cash. The two stolen phones were subsequently produced before the police by his wife. Learned APP further submits that other accused remain absconding and that the applicant has two antecedents. The prosecution contends that the present offence was committed while he was on bail and apprehends interference with the witnesses and commission of further offences.

5. The allegations are serious. Interception of a vehicle, removal of its occupants to another place and taking their property at knife point cannot be treated lightly. Equally, the question before this Court is whether the material collected against this applicant, considered with the need to secure his attendance and protect the prosecution evidence, requires his continued detention pending trial. Completion of investigation does not by itself entitle him to bail, but it is relevant when the principal investigative steps concerning him have already been taken.

6. On the submission concerning identification, the first information report names Ajay and describes the other participants as unknown persons. It contains descriptions of some

of them but does not identify the present applicant by name. The papers also show that the investigating officer sought permission for a test identification parade and that arrangements were made through the Executive Magistrate. The station diary entry dated 20th April, 2026 records difficulty in securing the attendance of the informant and the other eyewitness, including the hospitalisation of the informant's father. It would therefore be incorrect to say that the investigating officer took no steps to arrange a parade. Nevertheless, no completed parade identifying this applicant is shown in the papers before the Court. Its absence is not conclusive of innocence and does not render any future identification inadmissible. It does, however, leave an important aspect of the identification of this previously unknown participant to be tested at trial.

7. The allegation that the applicant planned the occurrence and distributed the cash is substantially narrated in statements recorded by the police from the applicant and the other persons implicated in the offence. Those statements cannot be treated, merely because they form part of the charge-sheet, as substantive proof of the confessional account. Section 23 of the Bharatiya Sakshya Adhiniyam, 2023, prohibits proof of a confession made to a police officer, subject to the limited statutory

exception concerning information distinctly related to a fact discovered. The independent circumstances must therefore be examined separately. This is material to the prosecution's description of the applicant as the mastermind; that description cannot substitute for examination of its evidentiary foundation.

8. The recovery of the phones is one such circumstance and cannot be ignored. The charge-sheet records that on 7th April, 2026 the applicant's wife Sonali produced the two stolen phones before the police, stating that they had been kept with her by the applicant and Ravindra. The seizure is recorded in presence of government panch witnesses. The submission that there is no incriminating recovery at all, or that the seizure is necessarily unreliable because the panch witnesses are government employees, cannot be accepted. The production of the phones supplies a circumstance against the applicant. At the same time, it is a production by a third person, involving an alleged connection with two accused. The circumstances of entrustment and the extent to which this material establishes the applicant's participation in the dacoity, rather than a connection with the stolen property, remain matters for evidence. For the present limited purpose, this circumstance has been weighed together with the unresolved eye-witness identification and has not been

discarded.

9. The allegation of use of the knife also requires individual consideration. The investigative account attributes its use to Ravindra. In case of ***Ganesan v. State, (2022) 15 SCC 634*** represented by Station House Officer, Criminal Appeal No.903 of 2021 with the connected appeal, decided on 29th October, 2021, the Supreme Court explained, while interpreting Section 397 of the Indian Penal Code, that the enhanced minimum punishment attaches to the offender who personally uses the deadly weapon. Section 311 of the Bharatiya Nyaya Sanhita employs materially corresponding language. Accordingly, the use of the knife by another participant cannot, without examining the applicant's own attributed conduct, be treated as sufficient to attract that provision against him. This observation does not exclude liability for conjoint commission of dacoity under Section 310 and is confined to the present assessment for bail.

10. The antecedents and the prosecution's allegation that this offence was committed while the applicant was on bail weigh against him. The underlying papers include Crime No.271 of 2025 at Taloda Police Station, involving serious allegations under the Bharatiya Nyaya Sanhita and the Protection of Children from

Sexual Offences Act, and Crime No.34 of 2025 at Molgi Police Station under Section 122 of the Maharashtra Police Act. The applicant therefore cannot be treated as having an unblemished record. However, the pending accusations do not establish his guilt in this case. They require closer scrutiny of the present evidence and appropriate safeguards. Having undertaken that scrutiny, the Court considers that regular reporting, a prohibition against contact with prosecution witnesses, and attendance before the trial Court can address the risks sufficiently for the purpose of this application. Any breach or attempt to influence a witness would justify an application for cancellation of bail.

11. The applicant has remained in custody since 5th April, 2026. The statements have been recorded, the phones are in police custody and the charge-sheet has been filed. The fact that some co-accused remain absconding is a relevant concern, but does not, by itself, require this applicant's detention until they are apprehended. Considering the nature of the identification material, the limitations governing the police-recorded confessional statements, the recovery circumstance and the antecedents together, this Court is satisfied that the applicant may be released on stringent conditions. The conclusion does not proceed on an absence of material against him, but on the assessment that his

further detention is not necessary when his attendance and the protection of the evidence can be secured by those conditions. Hence, following order :

ORDER

a) The application is allowed.

b) The applicant, Samsa Ojama Vasave, shall be released on bail in Crime No.60 of 2026 registered at Molgi Police Station, District Nandurbar, on furnishing P.R. bond of Rs.30,000/- with one or two sureties in the like aggregate amount, to the satisfaction of the trial Court.

c) He shall attend Molgi Police Station on the first and third Sunday of each month between 10.00 a.m. and 12.00 noon for six months, and thereafter on the first Sunday of each month until conclusion of the trial, unless modified by the trial Court.

d) He shall furnish his current residential address and contact number to the investigating officer and the trial Court and intimate any change promptly.

e) He shall not directly or indirectly contact, threaten, induce or influence the informant or any prosecution witness, or tamper with the evidence. He shall attend the trial regularly, unless exempted by the trial Court, and shall not leave India without its prior permission.

f) The prosecution shall be at liberty to seek cancellation of bail upon breach of these conditions or misuse of liberty. Release under this order is subject to the applicant not being required in custody in any other case.

g) All observations are prima facie and confined to this application; the trial Court shall decide the case independently on the evidence.

(HITEN S. VENEGAVKAR)
JUDGE