IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

937 BAIL APPLICATION NO. 1716 OF 2026

BABANYA ALIAS BABAN SOPAN KALE
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER
...
Advocate for the Applicant : Mr. Kore Ganesh J
APP for Respondent/State : Mr. V.K. Kotecha
...

CORAM : HITEN S. VENEGAVKAR, J.
DATE : 09.10.2026

PER COURT :

. Heard learned Advocate for the applicant and learned APP for State.

2. The present application seeks regular bail in connection with offence bearing Crime No.132 of 2026 registered with Washi Police Station, District Dharashiv, for offence punishable under Section 310 (4) of Bharatiaya Nyaya Sanhita, 2023. The offence is also registered under Sections 4 and 25 of the Arms Act,1959. The present applicant was arrested on 16.04.2026 and since then he was in custody. The investigation is complete and charge-sheet has already been filed.

3. The prosecution case, in brief, is that on the date of incident, the Security Guard present near the windmill project of Saretica Renewable India Private Ltd. reported the informant that five persons on two motorcycles have come to the site for committing theft. The motorcycles were unnumbered and they were carrying sack bags on their backs. On this information, the complainant who is working as

Security Supervisor in the said company immediately reached the spot alongwith the other persons. They saw two motorcycles with five persons riding on the same. On seeing the complainant and the other persons approaching them, they started running away on their motorcycles. The complainant chased the motorcycle on his own vehicle. At one place, one of the motorcycles skidded. One person was apprehended by the informant, while the other successfully fled from the spot. The information was given to the police and upon arrival of police, they took the accused in custody alongwith the motorcycle and the sack bag which he was carrying. On inspection of the bag, it was found that the said accused was carrying dangerous weapons alongwith the equipments necessary for carrying out theft. On making enquiries with the said accused, he revealed the name as Rahul Kale. On further interrogation pertaining to the other accomplices, he disclosed their names as well. The present applicant was named as one of the said accomplices by Rahul Kale.

4. The investigation proceeded after the information was recorded in the FIR. The present applicant came to be arrested on 16.04.2026. It is the case of the prosecution that recovery of the motorcycle was at the instance of the present applicant.

5. Learned Advocate appearing for the applicant submits that, apart from the statement of co-accused Rahul Kale, who disclosed the name of the present applicant, there is nothing available on record which remotely connect the present applicant with the alleged offence. He submits that even the alleged recovery of motorcycle suffers from

several deficiencies. The recovery of the motorcycle is made from open place near the residence and therefore, it cannot be said that the recovery is effective to implicate the present applicant.

6. Learned APP for the respondents/State submits that the presence of applicant in the alleged offence was revealed at the time of interrogation of the co-accused Rahul Kale. The applicant has one criminal antecedent to his credit. The recovery of motorcycle which was used in the offence is sufficient to infer the involvement of the present applicant in the alleged offence. He, therefore, prays for rejection of bail application.

7. I have perused the material placed on record by the prosecution as well as learned Advocate for the applicant. I have also considered the submissions of both the learned counsel. It is a matter of record that the applicant came to be arrested after four days from the date of alleged FIR. The material annexed shows that the name of the present applicant was revealed by the co-accused from the initial interrogation. There is no other material available on record to suggest the involvement of the present applicant. No doubt, the statement of the co-accused at the initial stage of interrogation can be taken up for the purpose of investigation. However, after the applicant was arrested it was the duty of the Investigating Officer, to collect entire material to show the involvement of the present applicant in the alleged offence. The investigation is complete and simpliciter reliance on the statement of the accused is inadmissible and impermissible. Merely because the motorcycle is recovered at the instance of the present applicant cannot

be said to be a material which can successfully implicate the present applicant in the alleged offence. Involvement of the said motorcycle in the alleged offence will have to be established by leading evidence by the prosecution before the trial Court. There is nothing available on record to show that the said motorcycle is the same which was used in the offence. The recovery *panchnama* shows that there is a number plate on the motorcycle. All these facts will have to be ascertained and proved before the trial Court by leading evidence.

8. Thus, merely because the co-accused has named the present applicant is insufficient material to continue the custody of the present applicant who has been in custody since 16.04.2026. In the aforesaid circumstances of the case, I am inclined to allow the application. Hence, the following order :

ORDER

(i) The Bail Application is allowed.

(ii) The applicant shall be released on bail in Crime No. 132 of 2026 registered with Washi Police Station, District Dharashiv, for the offence punishable under Sections 310 (4) of Bhartiya Nyaya Sanhita, 2023 and under Sections 4 and 25 of the Arms Act, 1959 on furnishing a personal bond of Rs. 50,000/- (Rupees Fifty Thousand only) with one or two solvent surety in the like amount, subject to the following conditions :

a) The applicant shall attend the concerned police station on the first Monday and the last Monday of every month between 10:00 a.m. and 02:00 p.m. till framing of charge and thereafter shall

regularly attend each and every effective date before the trial Court, unless his attendance is specifically exempted.

b) The applicant shall not, directly or indirectly, contact, threaten, induce or influence the informant or any prosecution witness and shall not tamper with the prosecution evidence.

c) The applicant shall furnish his current residential address and mobile number to the Investigating Officer and the trial Court within seven days of release, intimate any change forthwith, and attend the Investigating Officer upon prior written notice if further investigation is required.

d) The applicant shall not leave India without prior permission of the trial Court and, if he possesses passport, shall deposit the same with the trial Court within seven days of their release.

e) The applicant shall not involve himself in any offence of a similar nature while on bail.

f) Breach of any of the above conditions shall entitle the prosecution to apply for cancellation of bail.

g) All observations in this order are prima facie and confined to the decision of this bail application. The trial Court shall decide the case independently on the evidence led before it. The Bail Application is disposed of in the above terms.

(HITEN S. VENEGAVKAR, J.)

V.S.Joshi