IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO. 1773 OF 2026

Vicky Arun Chaudhari ... Applicant
(Currently at Central Prison, Nashik)

VERSUS

1. The State of Maharashtra
Through the Investigating Officer,
Shani Peth Police Station, Jalgaon

Mr. Kalpesh Bhaskar Suryawanshi, Advocate for the Applicant
Mr. D. J. Patil, APP for the Respondent-State

CORAM : HITEN S. VENEGAVKAR, J.
Dated : 30th 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.245 of 2025 registered with Shanipeth Police Station, Jalgaon. The investigation has culminated in a charge-sheet dated 2 February 2026 and Sessions Case No.40 of 2026. The charge-sheet invokes sections 103(1), 109, 111(2)(a), 352 and 46 read with section 3(5) of the Bharatiya Nyaya Sanhita, 2023, together with provisions of the Arms Act and the Maharashtra Police Act. The applicant's earlier application below Exhibit 2 was rejected by the Additional Sessions Judge-7, Jalgaon, on 24 July 2026.

2. The prosecution states that the incident arose on 9 November 2025 after a dinner gathering arranged by Bhushan Sapkale at

Kanchannagar, Jalgaon. There was an altercation involving Akash alias Doya Muralidhar Sapkale, Ganesh alias Kalya Ravindra Sonawane, Sagar Patil and others. Akash Sapkale and Ganesh had earlier belonged to the same group. Differences had developed between them in connection with externment proceedings and Ganesh's association with Tushar alias Sabu Sonawane and Sagar Patil. Following the altercation at the gathering, both the groups left that place.

3. The prosecution further states that at about 10.15 p.m., Ganesh was near the applicant's house when Akash Sapkale, Karan Patil, the applicant and Akash alias Taprya Yuvraj Baviskar came running from the direction of the railway track. Akash Sapkale questioned Ganesh about forming another group and fired at him with a country-made pistol, causing injuries to his left hand and abdominal region. Tushar then held Akash Sapkale and attempted to take him away towards the railway track. It is at this stage that the applicant allegedly abused and exhorted Akash Sapkale by saying some abusive words. Near Gopal Vaishnav's house, Akash Sapkale freed himself from Tushar's hold and fired again. The bullet injured Tushar near his left ear and struck Akash Baviskar, who was behind him, in the chest. Akash Baviskar subsequently died. Thereafter, when Sagar tried to restrain Akash Sapkale, Karan allegedly encouraged him, and Akash Sapkale struck Sagar on the forehead with the reverse side of the pistol.

4. The deceased's father, Yuvraj Baviskar, lodged the report on 10 November 2025 upon information received by him. Ganesh, Tushar and

Sagar were initially named amongst the accused, but the investigation subsequently treated them as injured witnesses. The provisions concerning unlawful assembly and common object initially invoked were deleted and section 3(5) BNS was added. The applicant is accused No.2 in the charge-sheet. The investigation relies upon the injured and other eyewitnesses, medical documents, the post-mortem report, recoveries and the panchnamas concerning CCTV footage. The medical opinion attributes the death to shock and haemorrhage due to bullet injury to the left lung.

5. Ld. Advocate for the applicant submits that the applicant neither possessed nor used the firearm and that no weapon was recovered from him. The firing and all the physical injuries are attributed to Akash Sapkale. The quarrel developed during a social gathering, and the applicant's association with those present does not by itself establish a common intention to commit murder. It is submitted that the allegation of instigation must be examined in the context of the entire occurrence and the words recorded in the CCTV panchnama. The applicant also disputes the inference of participation drawn by the Sessions Court from that material.

6. Ld. Advocate for the applicant further submits that some witnesses are related to the injured persons, that the injured persons were initially named as accused and that Ganesh himself has antecedents and an externment history. The applicant questions the identification of voices and the adequacy of the material connecting

him with an organised crime syndicate. He also disputes the application of the Arms Act and the Maharashtra Police Act to his individual role. The investigation is complete, his clothes and mobile telephone have been seized, and he has remained in custody since November 2025. He submits that the declaration pertaining to the criminal antecedes of the applicant is ready but has not yet been filed in the Registry. The said declaration, produced in court, is taken on record and marked as 'X' for the purpose of identification. The learned Advocate submits that the applicant has a family dependent upon him and will comply with conditions securing his attendance and protecting the witnesses.

7. Ld. APP submits that the applicant's role cannot be confined to his not having fired the pistol. He was involved in the earlier altercation, accompanied the armed accused and encouraged him after the first shot had already injured Ganesh. The statements of Tushar, Vaishali Sapkale and Sapna Sonawane specifically attribute words of exhortation to him. His presence and conduct also find support in the CCTV panchnama. Ld. APP relies upon the medical evidence and the material concerning the group and its activities, and submits that the applicant is liable for the acts committed in furtherance of their common intention. The subsequent conduct alleged at the hospital and the possibility of influencing witnesses residing in the same locality are also pressed against his release.

8. The application requires consideration of the applicant's particular role together with the seriousness of the occurrence, the

material supporting the accusation and the risks attending his release on bail. In Ramesh Bhavan Rathod v. Vishanbhai Hirabhai Makwana (Koli), (2021) 6 SCC 230, the Supreme Court emphasised the duty to give reasons reflecting judicial consideration of the material while avoiding a detailed determination of guilt at the bail stage. The absence of an injury caused personally by an accused is relevant, but cannot be treated as conclusive where abetment or common intention is alleged.

9. The submission that no particular words of incitement are attributed to the applicant is not borne out by the charge-sheet. Tushar, Vaishali and Sapna attribute the words referred to above to him. Tushar is himself an injured witness. Their statements cannot be disregarded merely because some witnesses are related to each other or because Ganesh has criminal antecedents. Equally, the fact that some injured witnesses were initially named as accused does not render their subsequent statements inadmissible. The reasons for the change in their position, and the reliability of their statements, will be examined at the trial. The present application is therefore not being allowed on the premise that there is no material against the applicant.

10. At the same time, the material must be read as a whole. The CCTV viewing and transcription panchnama dated 12 November 2025 records the applicant's presence amongst the four persons approaching the locality is evident. During the movement towards the railway track, it records words attributed to the applicant questioning Tushar, in abusive language, about coming towards his house. Vaishali identified

the speaker as the applicant. The exhortation reproduced in the police statements is not separately reproduced in that transcription. This does not establish that the witnesses are untruthful or that the recording captured every word spoken. It does, however, require care before treating the CCTV material as independent confirmation of the precise instigation alleged. The actual recording and the evidence concerning its contents will require consideration at the trial.

11. The earlier CCTV panchnama concerning the dinner gathering records that there was a quarrel, and efforts by those present near the incident of quarrel to separate the groups and the applicant taking Akash Sapkale away. The subsequent presence of the applicant with him is a circumstance against the applicant, particularly when considered with the alleged exhortation and abuses. Nevertheless, the investigation also records that the deceased came with the same group and that the original dispute was between Akash Sapkale and Ganesh, and that Tushar's intervention was followed by a further confrontation with Akash Sapkale. The applicant's wife states that she had telephoned him after persons arrived outside their house and that he thereafter returned with the others. Without accepting that statement as conclusive, these circumstances indicate an occurrence developing through successive confrontations. They call for an individual assessment of the applicant's alleged participation rather than an automatic attribution to him of every act of the armed accused.

12. Common intention can develop during an occurrence, and

intentional encouragement can attract criminal liability without a physical assault by the person giving it. Nor does the fact that the fatal bullet struck a person other than the intended target, by itself, answer the charge of murder. Those legal possibilities have been kept in view. The question presently is whether the applicant's continued detention is warranted by his alleged role and the material supporting it. He is not alleged to have supplied the firearm, restrained an injured person to facilitate the firing or himself inflicted any injury. His alleged contribution is principally the disputed exhortation and his accompanying conduct. The seizure of his clothes and telephone is relevant investigative material, but does not by itself establish the intention with which he participated. The allegation that he and Karan subsequently abused Ganesh at the hospital is also relevant to the protection of witnesses and must be addressed by appropriate restrictions.

13. The addition of section 111(2)(a) BNS has also been considered. Section 111 requires the statutory connection with continuing unlawful activity and an organised crime syndicate, together with the other ingredients specified therein. The required purpose of obtaining a direct or indirect material benefit must also be considered; joint participation in a violent quarrel does not dispense with that ingredient. The record contains an externment order and details of previous cases concerning Akash Sapkale and others. Those documents cannot be overlooked. However, the applicant is not named amongst

the persons directed to be externed by that order. The witnesses' description of the persons concerned as members of the Ladu group, and the assertion that the present offence was jointly committed, require examination against the statutory ingredients. The applicant's absence of antecedents does not by itself exclude liability under section 111, since the relevant previous cases may concern the syndicate. Even so, the material concerning the principal accused cannot, without examining the applicant's connection with that activity, be treated as sufficient reason to continue his detention. No final finding on the applicability of section 111 is necessary for the present purpose in this application against the applicant.

14. The gravity of the death and the injuries remains a substantial consideration. However, investigation is complete and the charge-sheet has been filed. The applicant has remained in custody since November 2025, and the charge-sheet cites numerous factual, medical and formal witnesses. His assertion of having no previous criminal antecedents is not displaced by the antecedent material concerning the other persons referred to above by the prosecution. Custody and completion of investigation would not, independently, justify bail in a case of this nature. Considered with the applicant's distinct role, the circumstances in which the occurrence developed and the limits of the recorded CCTV transcription, they weigh in favour of release subject to safeguards.

15. The Sessions Court relied upon investigation and the CCTV material while invoking common intention or common object. The final

investigation has, however, deleted the common-object provisions. Liability under section 3(5) must be considered on its own requirements. For the reasons discussed above, the applicant's case deserves a different view for the limited purpose of bail. His residence in the same locality as material witnesses creates a concern which cannot be answered merely by observing that their statements have already been recorded. Temporary exclusion from that locality, a prohibition on contact with witnesses and regular reporting will provide necessary protection. On a cumulative consideration, the application deserves to be allowed. Hence, the following order:

**ORDER**

a) The application is allowed.

b) The applicant, Vicky Arun Chaudhary, shall be released on bail in connection with Crime No.245 of 2025 registered with Shanipeth Police Station, Jalgaon, and Sessions Case No.40 of 2026 arising therefrom, on executing a personal bond of Rs.50,000 with one or two solvent sureties in the like amount, subject to the following conditions.

c) Before release, the applicant shall furnish to the trial Court and the Investigating Officer his proposed residential address outside Kanchannagar, Jalgaon, and his mobile telephone number. For six months from his release, he shall not enter Kanchannagar except with prior permission of the trial Court. This condition is exempted for attending court dates and police station attendance if both place falls within the said limits.

d) He shall report to Shanipeth Police Station on the first Sunday of every month between 10.00 a.m. and 12.00 noon for six months.

e) He shall not directly or indirectly contact, threaten, induce or influence any prosecution witness, tamper with evidence or attempt to interfere with the trial. He shall communicate any change of address or mobile telephone number to the trial Court and the Investigating Officer, attend the trial unless exempted and not leave India without prior permission of the trial Court.

f) The observations in this order are confined to the decision on bail and shall not influence the trial or the consideration of the case of any other accused. The application stands disposed of.

( HITEN S. VENEGAVKAR, J.)

JPChavan