2026:BHC-AUG:52083

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

27 BAIL APPLICATION NO. 2052 OF 2026

SANGHPAL ROHIDAS SITAPE

VERSUS

THE STATE OF MAHARASHTRA

...

Mr. N.D. Kendre, Advocate for applicant

Mrs. A.S. Deshmukh, APP for sole respondent

...

WITH

BAIL APPLICATION NO. 2090 OF 2026

ASHUTOSH BHIVAJI WAGHMARE

VERSUS

THE STATE OF MAHARASHTRA

...

Mr. P.P. More, Advocate for applicant

Mrs. A.S. Deshmukh, APP for sole respondent

...

CORAM : HITEN S. VENEGAVKAR, J.

DATE : 26th OCTOBER, 2026

ORDER :

. Heard learned Advocates for respective applicants and the

learned APP for State. With the assistance of the learned Advocates for the respective applicants and the learned APP I have also perused the entire charge sheet annexed to the present applications. The applications preferred by the present applicants seeking regular bail in connection with Crime No.309/2026 dated 04.06.2026 registered with M.I.D.C. Police Station, Latur, for the offence punishable under Sections 4/25 of the Arms Act, Sections 109, 118(2), 115(2), 3(5), 324(2), 352 of the Bharatiya Nyaya Sanhita, 2023. The applicants came to be arrested on 05.06.2026 and since then they are in custody. The investigation is complete and charge sheet is filed.

2 The prosecution case against the present applicants is that on the date of incident the informant and the injured friend had proceeded to consume liquor in a Bar and Restaurant along with one of the other friend. Initially, when the informant and the other friend had entered to purchase rice from the restaurant, at that time the injured who was standing outside was slapped by the accused persons. When the informant and his friend came back to the injured witness, at that time he told them about the incident of slapping at the hands of applicants. The informant and his friend therefore questioned the applicants as to why they have slapped and there was a quarrel between the informant, his friend and the injured witness with the present applicants. During the quarrel both the parties slapped each

other and due to interference of some persons the said quarrel was disbursed. The informant, injured person and the friend all three went into the restaurant, consumed some more liquor and had food. When they came out, the injured witness once again raised quarrel with the present applicants and again there was a scuffle between the group. At that time it is alleged that the applicant Ashutosh made a telephonic call to accused No.4 and asked him to come to the spot with some weapon. When accused No.4 reached the spot, the quarrel took place, which led into physical scuffle, due to which accused No.4 took out the weapon 'Koyta' wrapped in a cloth and threatened the informant and the injured person. Seeing the Koyta, the informant and the injured person immediately fled on their motorcycle. It is alleged that the applicant Ashutosh and accused No.4 chased the informant and injured Sagar on their motorcycle. Reaching close to the informant's motorcycle it is alleged that accused No.4 took out Koyta and assaulted the injured Sagar on his head, due to which informant as well as injured person Sagar fell down. The lookers interfered and, therefore, the applicant fled from the spot. The injured was immediately carried to the hospital, wherein the informant lodged a complaint against the present applicants and two others, which came to be registered as a present offence.

3 The applicants came to be arrested on 05.06.2026. One of the

co-accused by name Amol was released on bail before filing of charge sheet on the ground that there is no role attributed to the said accused.

4 The learned Advocate Mr. N.D. Kendre appearing for the applicant Sanghpal argues that the allegation pertaining to assault by a weapon on the head of the injured person Sagar is not attributed to either accused Sanghpal or to the applicant Ashutosh. The allegation is specific that the use of weapon and causing injury on the head of injured Sagar is attributed to accused No.4. The only allegation against the accused Sanghpal is about initial quarrel and assault by fist and kick blow. There is no other allegations that applicant Sanghpal chased the informant and the injured Sagar on the motorcycle. The learned Advocate Mr. P.P. More appearing for the applicant Ashutosh argues that initial quarrel he had participated and there was a scuffle between both sides, wherein both the sides have slapped each other. The another allegation which the prosecution has levelled against present applicant Ashutosh is that at his instance accused No.4 came there with a weapon. It is the present applicant who drove the motorcycle on which accused No.4 was sitting with Koyta and when they reached near the motorcycle, accused No.4 assaulted the injured Sagar on his head with Koyta. So the allegations against applicants are two folds i.e. participating in the initial quarrel and physical scuffle and also in the subsequent incident he

drove the motorcycle and carried accused No.4 and chased the informant and injured Sagar with accused No.4 and thus, participated accused No.4 to make an assault to inflict an assault of Koyta on the head of the injured Sagar. He submits that in any case the applicant Ashutosh has not inflicted the injury that has been caused to the injured Sagar. He submits that only for driving the motorcycle and making a single phone call to the accused No.4 would not attract the ingredients of Section 109 of the Bharatiya Nyaya Sanhita. He submits that both the applicants are in custody since 05.06.2026, investigation is complete and, therefore, their further custody is unwarranted.

5 The learned APP on the other hand opposes the applications by saying that the initial quarrel itself was initiated by the present applicants. It was the applicant Ashutosh who called accused No.4 on spot with the weapon and, therefore, serious injury to the head of injured Sagar has been caused. This cannot be segregated from the actual act committed by accused No.4. He submits that the allegations and the role are very specific and, therefore, bail applications need to be rejected.

6 I have heard both the Advocates for the respective applicants and the learned APP and have also considered the entire statements of witnesses. No doubt, the prosecution case against present applicants is direct and

specific. The name of applicants are reflected in the First Information Report and a specific role has also been assigned to each of the applicants. Thus, going by the role assigned by the prosecution to each of the applicants, the applicant Sanghpal is alleged to have had physical scuffle and quarrel at the time of initial incident. There is no role attributed to the applicant Sanghpal that he used the deadly weapon in the alleged offence or he instigated the other accused person to assault injured witness Sagar. The circumstance whether the applicant Sanghpal was responsible for the initial quarrel and the physical scuffle will have to be separately proved by the prosecution by leading evidence. There is absolutely no material on record to show that there was any common intention and preparation or premeditation to cause a serious injury to the injured witness Sagar. The role assigned to the applicant Ashutosh is also specific. He alleged to have made a phone call and asked accused No.4 to come to the spot with weapon. The weapon was brought by accused No.4. However, the prosecution story itself indicates that the initial incident of quarrel and physical scuffle which takes place between accused persons and the informant and injured Sagar does not show that the said weapon was used. It was at the fag end of the quarrel. When the person standing nearby intervened and tried to separate the group from continuing with the physical scuffle, at that time accused No.4 on his own removed the weapon and threatened the informant and injured Sagar. The incident

pertaining to chasing the informant's vehicle which was driven by present applicant Ashutosh again does not show that he had any knowledge that accused No.4 will assault the injured witness Sagar on his head with the aid of koyta. Thus, merely driving the said motorcycle in itself is not sufficient to attract Section 109 of the Bharatiya Nyaya Sanhita and the same will have to be proved by leading evidence at the time of trial. Apart from this role the important aspect that requires consideration is completion of investigation and filing of charge sheet. Thus, to my mind, once the charge sheet is filed and investigation is complete, the continuous custody of the present applicants on the basis of the allegations levelled by the prosecution in the alleged offence is unwarranted. Therefore, both the applications stands allowed. Hence, following order.

ORDER

(i) Both Bail Applications stand allowed.

(ii) Applicant **Sanghpal Rohidas Sitape** in Bail Application No.2052 of 2026 and applicant **Ashutosh Bhivaji Waghmare** in Bail Application No.2090 of 2026 shall be released on bail in Crime No.309/2026 dated 04.06.2026 registered with M.I.D.C. Police Station, Latur, for the offence punishable under Sections 4/25 of the Arms Act, Sections 109, 118(2),

115(2), 3(5), 324(2), 352 of the Bharatiya Nyaya Sanhita, 2023, on furnishing P.R. Bond of Rs.50,000/- (Rupees Fifty Thousand only) with one or two solvent sureties each in the like amount each, subject to the following conditions :

(a) The applicants shall attend the trial Court on every date fixed, unless their attendance is specifically exempted.

(b) The applicants 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 applicants shall furnish their current residential addresses and mobile numbers 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 applicants shall not leave India without prior permission of the trial Court and, if they possess passport, shall deposit the same with the trial Court within seven days of their release.

(e) The applicants shall not involve themselves 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.

(iii) All observations in this order are *prima facie* and confined to the decision of these bail applications. The trial Court shall decide the case independently on the evidence led before it.

(iv) The bail Applications stand disposed of in the above terms.

(HITEN S. VENEGAVKAR, J.)

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