IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

942 BAIL APPLICATION NO. 2077 OF 2026

Javed Chotu Atar ….Applicant

Versus

The State of Maharashtra …..Respondent

…..

Ms. Sakshi Dushing h/f. Shri. S. B. Dushing, Advocate for Applicant
Shri. S. V. Hange, APP for Respondent – State.

…..

CORAM : HITEN S. VENEGAVKAR, J.

DATED : 04.11.2026

PER COURT :

1. The present application is filed by the applicant seeking regular bail in connection with Crime No. 87 of 2026 registered with Ahilyanagar Taluka Police Station, Dist. Ahilyanagar. The offences alleged against the present applicant are mainly punishable under Section 103(1) of the BNS. The applicant came to be arrested on 12th February, 2026, and since then, he has been in custody.

2. The prosecution case, in brief, is that on 6th March 2025, at about 9:00 a.m., the deceased Mitthu Datt, while under the influence of liquor and armed with an iron hammer, went to Komal Farsan Mart Hotel, near the VRDE gate, at Arangaon. He allegedly damaged the glass counter and other articles in the hotel and threatened the persons present there. The material collected during the investigation further shows that the deceased assaulted one Dattatrey Garad and elderly customer who had arrived there with his wife, by giving him a hammer blow on his head,

and also damaged his motorcycle. Thereafter, the deceased went towards his fabrication shop. The women and workers of the hotel had already engaged in an altercation. It is alleged that the deceased was caught, brought down and assaulted by the accused persons. He sustained head injuries and was initially admitted to Pacific Super Speciality Hospital at Ahilyanagar. He was subsequently shifted to Sassoon General Hospital, Pune, by his relatives, where he died during treatment on 23rd March, 2025. The post-mortem report records the cause of death as complications following head injury. Initially, the prosecution report suggests that an accidental death bearing A.D. No. 39 of 2025 was registered on 29th March 2025. The enquiry was subsequently transferred to the Police Inspector, Supa Police Station. During the course of the enquiry, two video clips recorded on a mobile phone were secured. On the basis of the statements of the witnesses, the video clips and the medical material, the present crime came to be registered on 11th February, 2026 against the owner of the hotel, present applicant and three workers of the establishment.

3. Learned Advocate for the applicant submitted that the occurrence was neither premeditated nor the result of any previous enmity. The deceased himself initiated the incident by damaging the property and indiscriminately threatening and assaulting persons with the hammer. The persons present there attempted to disarm and restrain him. It is submitted that no weapon is attributed to the applicant and there is no

allegation that he delivered any blow on the head or any vital part of the deceased. The role emerging from the video recording is that the applicant and other workers brought the deceased down while the hammer was being taken away from him.

4. Attention was invited to the statement of Yogesh Shinde, the brother-in-law of the deceased, according to whom the deceased slipped, his foot got entangled near a tree enclosure, and he fell from a cement slab covering the drain. It was further submitted that co-accused Bhausaheb, the owner of the hotel, has already been released on bail. The investigation is complete. Nothing remains to be recovered from the applicant. He has no criminal antecedents and his further detention is not necessary.

5. Learned APP opposed the application and submitted that the live video and the panchnama show the active participation of the applicant. The applicant was wearing a green coloured T-shirt and along with another worker, was seen bringing the deceased down. Thereafter, the deceased was assaulted. Mr. Vinod Sonawane, who is an eyewitness and who recorded the video of the entire incident, has stated that two or three persons assaulted the deceased after he was brought down. The medical material shows that the deceased sustained a serious head injury and ultimately died as a consequence thereof. The learned APP, therefore, submitted that the applicant was a member of the unlawful assembly and

having referred to Section 190 of the BNS, submits that the absence of an individual overt act would not exonerate him. In addition to above, the learned APP also submits that transcript of the video recording shows that the present Applicant was holding some article in his hand and was seen assaulting. The further recording suggests that the present applicant handed over the weapon hammer to the other co-accused. The learned APP thus tries to suggest that, the injuries caused on the face of the Deceased are the injuries caused by the present Applicant with the aid of hammer and hence, law of parity will not apply to the present applicant with the other co-accused who are released on bail. He thus prays that the Application be rejected.

6. I have heard the learned Advocate for the Applicant and learned APP for the State and have also gone through the entire investigation material. The material at the present stage of bail is being considered for a very limited purpose. Submission of the learned APP about assaulting the deceased with the aid of hammer on the basis of transcript of the video recording is a matter that will have to be ascertained at the time of trial.

7. *Prima facie*, the incident was not planned. The material collected by the prosecution itself shows that the deceased arrived armed with a hammer, damaged the furniture and has also threatened the persons present, and inflicted a hammer blow on the head of an unrelated elderly

person. The accused persons thereafter followed the deceased and attempted to take the hammer away from him. The video recording attributes to the present applicant handing over hammer to Co-accused, who is identified by the green shirt that he was wearing, the act of joining another worker in bringing the deceased down is also one of the circumstance that can be attributed to the present applicant.

8. There are different versions concerning how the head injury was sustained. The eye-witness Vinod Sonawane states that the deceased was brought down and assaulted by two or three persons. On the other hand Yogesh Shinde, who is related to the deceased and who claims to have witnessed the occurrence, stated during the accidental death enquiry that, while the hammer was being snatched, the deceased's foot got entangled near the tree enclosure and he fell on the cement slab covering the drain. He thereafter stated that he had no complaint against anyone concerning the death. The medical evidence establishes a serious head injury and is causally connected with the death. However, whether that injury was caused by a direct act of assault or by the deceased being brought down, or by an accidental fall during the scuffle is a matter which will have to be determined at the time of trial. A fall on a cement surface would itself involve blunt force. At this stage, the medical material does not attribute the fatal injury to any identified act of the present applicant. Thus, the applicability of Section 190 of the BNS and the existence and scope of the alleged common object will necessarily be

examined at the time of trial. Nevertheless, for the limited purpose of bail, the circumstances preceding the occurrence and the absence of a distinct fatal blow attributed to the present applicant are material considerations which can be taken while deciding the application for bail.

9. The Co-accused Bahusaheb Nangare who is the owner of the hotel and the other co-accused Shivkumar Mahato who are also shown in the video as having participated in the occurrence, have been released on bail by the learned Sessions Court on 29th May 2026. Though, parity cannot be applied mechanically and the role of every accused has to be separately examined, the release of the co-accused is however, a relevant circumstance. Even on an independent assessment, the role attributed to the present applicant does not justify his continued pre-trial detention after completion of the investigation.

10. The applicant is in custody since 12th February, 2026. The charge-sheet has already been filed and his further custodial interrogation is not required. No recovery is to be effected from him. He has no criminal antecedents. The possibility of his absconding or interfering with the evidence can adequately be addressed by imposing appropriate conditions.

11. Thus, taking into consideration the seriousness of the charge and the material against the present applicant, I am inclined to allow the

present application. Hence, the following order:

ORDER

(i) The Bail Application is allowed.

(ii) The applicant shall be released on bail in Crime No. 87 of 2026 registered with Ahilyanagar Taluka Police Station, Dist. Ahilyanagar, for the offences punishable under Sections 103(1), 189(2), 190, 191(2) and 191(3) of the Bharatiya Nyaya Sanhita, 2023, on furnishing a personal bond of Rs. 50,000/- (Rupees Fifty Thousand only) with one or two local solvent sureties in the like amount, subject to the following conditions:

a) The applicant shall attend the concerned police station on the first Monday and the third 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.

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 the State of Maharashtra without prior permission of the trial Court and if he possesses passport, shall deposit the same with the trial Court within seven days of his 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.

(iii) The Bail Application is disposed of in the above terms.

(HITEN S. VENEGAVKAR)
JUDGE

GGP