



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

906 CRIMINAL APPEAL NO. 709 OF 2025

NADIM KHAN NOOR KHAN

....Appellant

VERSUS

THE STATE OF MAHARASHTRA AND ANOTHER

.....Respondent

Mr. N. S. Ghanekar, Advocate h/f Mr. G. N. Tirthkar, Advocate for the appellant

Mr. P. C. Bhagure, Advocate for the respondent No.2

Mr. V. S. Badakh, APP for the respondents/State

CORAM : ABHAY J. MANTRI, J.

DATE : 17th APRIL, 2026

PER COURT :

1. The Appellant/accused No.2 has filed this Appeal for releasing him on bail in connection with the Crime bearing No. 30 of 2025 dated 25-01-2025 registered with the Khultabad Police Station, Dist. Chhatrapati Sambhajinagar for commission of the offences punishable under Sections 103(1), 238 and 61(2) of the Bhartiya Nyaya Sanhita (for short, '**BNS**') and Section 3(2)(v) of the Scheduled Caste and Scheduled Tribes [Prevention of Atrocities] Act (for short '**SC & ST Act**').

2. Heard the learned Advocate for the Appellant, learned Advocate for Respondent No. 2 and learned APP for the State.

3. Perused the Appeal memo, copy of the charge-sheet and reply filed by Respondent No. 2.

4. On 25-01-2025, the informant, Ratnamala, daughter of the deceased Shantabai, had lodged a report at Khultabad Police Station alleging that on 03-10-2024, her mother came to Aurangabad to purchase the material for her business and other works. However, she did not return till 21-10-2024. Therefore, on 22-10-2024, the son of the deceased Vijay lodged a missing report of their mother at Peth Police Station, Beed. Thereafter, on 10-11-2024, the dead body of the deceased Shantabai was found on the Khultabad to Verul road in the ghat area in a decomposed condition. So A. D. was registered at Kultabad Police Station. After receiving the blood/DNA report on 25-01-2025, the informant lodged the complaint. Pursuant to the said report/complaint, the Appellant and co-accused Javed were arrested. His Bail Application was rejected by the learned Special Judge (SC & ST Act), Aurangabad. Therefore, the Appellant has filed this Appeal for the grant of bail.

5. Learned Advocate Mr. Ghanekar for the Appellant vehemently contended that co-accused Javed was released on bail by this court. Therefore, on the ground of parity, the Appellant is

entitled to release on bail as the allegations against the Appellant are lesser than those against the accused No.1. Therefore, on that ground alone, the Appellant is entitled to bail.

6. During the argument, he has taken me through the relevant documents, i.e. postmortem report, memorandum panchanamas of the accused persons, conducted under Section 23(2) of the B. S. A. Act 2023, missing report and other documents.

7. He further argued that according to the prosecution, only incriminating material against the Appellant is: recovery of a weapon, i.e., a dagger/chopper, from the possession of the Appellant u/s 23(2) of the B. S. A. Act, and on that basis only the Appellant is implicated in the present crime. However, the CA report obtained by the prosecution, prima facie, does not show that said recovery helps to connect the Appellant to the present crime. Thus, he submitted that, in the absence of any incriminating material against the Appellant or a complete chain of evidence establishing the Appellant's guilt beyond a reasonable doubt, it would not be appropriate to detain him in prison; therefore, he urged the Appellant's release on bail.

8. On the other hand, the learned APP and learned Advocate for the informant/Respondent No.2 strenuously opposed the Appeal on the ground that during the investigation, the Police

had recovered the Dagger/chopper from the possession of the Appellant and said material evidence prima facie connect the Appellant with the present crime, as the said weapon was recovered at the instance of the Appellant. Therefore, the Appellant is not entitled to bail. They further argued that, whether the blood report/C. A. Report would help the prosecution or not; it would be considered at the time of final adjudication of the matter, not at this stage. Therefore, the result of the C. A. report is hardly of any assistance to the Appellant at this stage. Hence, they urged that the Appeal be dismissed.

9. At the outset, it appears that this court vide order dated 23-07-2025 in Criminal Appeal No. 347/2025, while releasing the co-accused Javed on bail, has observed that the case is totally based on circumstantial evidence. There is no material connecting the accused to the alleged crime; therefore, bail was granted.

10. It also appears from the charge-sheet that the case is based on circumstantial evidence. It is a settled principle of law that, if a case is based on circumstantial evidence, the prosecution must establish a complete chain of evidence showing the guilt of the accused beyond a reasonable doubt. In the case at hand, indisputably, except for the recovery of the blood-stained weapon, no incriminating material was brought on record or produced before the

court along with the charge-sheet to prima facie establish the complete chain of circumstantial evidence against the Appellant.

11. For the sake of argument, even assuming that the blood-stained dagger/chopper was recovered at the instance of the accused. However, the result of the Chemical Analysis report indicates that '*No amplifiable DNA profile is obtained from Exh. 1 Blood Scrapping from Mettalic Chopper, hence its comparison with a piece of sternum Bone of an unknown female cannot be given*'. The said report itself indicates that it cannot be given conclusively. Therefore, at this stage, prima facie, it is very difficult to draw the inference to connect the Appellant with the crime. Other material produced along with the charge sheet is hardly of any assistance to the prosecution in connecting the present Appellant to the crime.

12. Apart from that, the investigation is completed, and the charge-sheet is filed. Therefore, in my opinion, though the offence is of a serious nature, in my view, in the absence of prima facie material to connect the Appellant with the present crime, it would not be appropriate to detain the Appellant behind bars. However, to dispel the apprehension of the prosecution, the stringent conditions can be imposed while releasing the Appellant on bail.

13. As a result, the Criminal Appeal is allowed as prayed.

14. The Appellant be released on bail in connection with Crime bearing No. 30 of 2025 dated 25-01-2025 registered with the Khultabad Police Station, Dist. Chhatrapati Sambhajnagar for the offences punishable under Sections 103(1), 238 and 61(2) of the Bhartiya Nyaya Sanhita and Section 3(2)(v) of the Scheduled Caste and Scheduled Tribes [Prevention of Atrocities] Act, on furnishing PB and SB of Rs.1 lakh [Rupees One Lakh only] with one or two solvent sureties in the like amount, on the following terms and conditions:

i] The Appellant shall not tamper with the prosecution evidence in any manner till the conclusion of the trial.

ii] The Appellant shall not leave India without prior permission of the court till the conclusion of the trial.

iii] The Appellant shall furnish the contact details and residential address to the I. O./Police Station and the concerned Court, and shall keep the information updated, in case of any change.

[ABHAY J. MANTRI, J.]