



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPEAL NO. 820 OF 2025

MEHRAJ ABDUL KHAYUM PATEL

VERSUS

THE STATE OF MAHARASHTRA AND ANOTHER

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Advocate for Appellant : Mr. Shah Subodh P.

APP for Respondent No. 1 : Mr. V.M. Chate

Advocate for Respondent No. 2 : Ms. M. S. Hange

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CORAM : ABHAY J. MANTRI, J.

DATE : 23RD APRIL, 2026

PER COURT :

1. The Appellant / accused no. 1 being dissatisfied with the order dated 24.06.2025, passed below exhibit 10 in Special Case No. 60/2025, whereby the learned Special Judge, rejected the Application for grant of bail in connection with Crime No. 148/2025 registered at Vivekanand Chowk Police Station, Latur, for the offences punishable under Sections 103(1), 115(2), 352, 353, 351(2), 351(3), 3(5) of Bhartiya Nyaya Sanhita, 2023 and under Section 3(2)(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, has preferred this Appeal.

2. Heard the learned Advocate for the Appellant, learned APP for Respondent no. 1/State and learned Advocate for Respondent No. 2.

3. Perused the Appeal memo and a copy of the charge-sheet.

4. At the outset, it appears that on 08.03.2025, the Informant / Reshma, wife of the deceased has lodged the report/complaint against the Appellant and two others alleging that on 05.03.2025, when her husband deceased Tanaji return to house after completing his work told her that Appellant has beaten him by means of wooden rod on his person i.e. hand, leg, back and chest, so also he beat his nephew Ajay. Appellant also threatened them to kill. Thereafter, her husband rested. The next day, since the deceased Tanaji was in pain, he started screaming loudly. Therefore, at about 08:00 a.m., he was taken to Civil Hospital, Udgir, for treatment. The doctor referred him to the Civil Hospital, Latur, for further treatment as his condition was serious. On the next day, i.e. on 07.03.2025, at about 04:30 p.m., Tanaji died. Based on her report, an offence came to be registered against the Appellant and two others.

5. Pursuant to the registration of the offence, the Appellant has moved the Application (Exhibit 10) before the learned Special Judge for the grant of bail. Learned Special Judge by order dated 24.06.2025, rejected the Application. Being dissatisfied with the same, he preferred this Appeal.

6. Learned Advocate for the Appellant vehemently contended that the discrepancy between the eyewitness's statement and the report casts doubt on both. During the argument, he has taken me through the medical papers, the statements of the witness Ajay, and the FIR. From the medical papers and the statement of witness Ajay, discrepancies were pointed out by him in the prosecution's story. He therefore submitted that, although the prosecution claims that Ajay is the eyewitness, he seems to be a planted witness. Therefore, his statement is doubtful and hardly helpful for the prosecution. Appellant is a permanent resident of Udgir and has no criminal antecedents. As such, he urged that the Appellant be released on bail.

7. Learned APP and learned Advocate for the Respondent No. 2, strenuously opposed the Appeal, contending that Ajay is the eye witness to the incident and categorically stated that on 05.03.2025, Appellant, along with two others, had beaten the deceased by means of a wooden rod. He also points out the seizure panchnama of the CCTV footage and the observations made therein. However, he fairly submitted that in the observation, it does not appear that the deceased and witness Ajay were present at the workplace of the Appellant on 05.03.2025. Learned APP further fairly submitted that no weapon has been seized in the present crime. Similarly, there are no antecedents against the

Appellant. However, they both have urged to reject the Application.

8. Having heard the rival contention and perusal of the record, it appears that on 06.03.2025, when the deceased was suffering pain, his mother and wife took him to the Civil Hospital, Udgir and then Latur. The medical case papers of the deceased indicate that on 06.03.2025 at 01:15 p.m., he was taken to the Government hospital, Latur and a brief history of physical assault was narrated by the mother of the deceased as 3 days back by unknown persons, i.e. on 03.03.2025 at Latur.

9. The second case paper dated 06.03.2025, indicates that 'Addiction history of alcohol intake since the last fifteen years. Brand – Deshi daily intake for 12 years (two quarters). Last alcohol intake one day back (Deshi – 200 ml)'. It further indicates that 'patient under the alcohol influence history of physical assault three days back (03.03.2025) followed by sudden unconsciousness today'.

10. Further, the medical paper S/B of the same day wherein the history of patient illness was mentioned as under: ‘

The patient was brought in unconscious state and history narrated by his mother. The mother of the patient gives history of physical assault three days back. The patient was apparently alright one day back. Then, he fall back and became unconscious. So they brought to VDGMCL Latur, for further line of treatment’.

11. As per the informant's allegation, her husband stated the history of assault to her by the Appellant and co-accused on 05.03.2025.

However, the medical records indicate that he sustained the injuries on 03.03.2025, not 05.03.2025. Similarly, a discrepancy appears in the statements of the alleged eyewitness, Ajay, and the medical record about the time of the injury sustained by the deceased, and also in the statements of Ajay and the informant in that regard.

12. It is also evident that neither Ajay nor the deceased has lodged any report about the alleged incident till 07.03.2025. Apart from that, the police have not recovered any weapon in connection with the present crime, either at the instance of the Appellant or from the spot. The observations made in the seizure panchnama of CCTV footage do not show that the deceased and eyewitness Ajay were present on the spot/workplace of the Appellant on 05.03.2025. Thus, *prima facie*, a discrepancy appears between the history narrated to the Medical Officer by the mother of the deceased and the statements of Ajay and the informant. Moreover, learned APP fairly submitted that Appellant has no criminal antecedents. Both co-accused are already released on bail.

13. The investigation is completed, and the charge sheet is filed. Therefore, 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 him behind bars. However, to dispel apprehension of prosecution, stringent conditions can be imposed while releasing the

Appellant on bail.

14. As a result, **the Appeal is allowed in terms of prayer clause 'A' and 'B'.**

15. The Appellant be released on bail in connection with Crime No. 148/2025 registered at Vivekanand Chowk Police Station, Latur, for the offences punishable under Sections 103(1), 115(2), 352, 353, 351(2), 351(3), 3(5) of Bhartiya Nyaya Sanhita, 2023 and under Section 3(2)(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, ***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.
- vi] Bail before the Trial Court.

16. Learned Advocate Ms. M.S. Hange, appointed by the order dated 28.11.2025, is on the panel of the High Court Legal Services Sub-Committee, Aurangabad. As such, the secretary, High Court Legal Services Sub-Committee, Aurangabad, is requested to quantify the fees

of the learned Advocate for Respondent No. 2 in accordance with the Rules and pay the same.

(ABHAY J. MANTRI, J.)

SPC