



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

BAIL APPLICATION NO. 2275 OF 2025

BHAIYYA KADU KALE
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

...
WITH
BAIL APPLICATION NO. 2388 OF 2025

KISAN @ VIJAY GAUTAM KALE
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

...
Advocate for Applicants : Mr. Dinkar K. Dagadkhair
APP for Respondents : Ms. R. R. Tandale
...

CORAM : SACHIN S. DESHMUKH, J.

DATE : 29-01-2026

PER COURT:-

1. The applicants seek bail in connection with Crime No.447 of 2025 dated 10.06.2025 registered with Police Station Police Station M.I.D.C. Ahilyanagar, for the offences punishable under Sections 310(2) and 311 of the *Bharatiya Nyaya Sanhita, 2023*. In the said crime, the applicant was arrested on 16.06.2025. After completion of the investigation, the chargesheet has been filed.

2. The case of the prosecution is that on 09.06.2025, during the night hours, six to seven individuals armed with knives and sticks forcibly entered the informant's house. With the intention to rob, the accused threatened the occupants with their weapons. The

accused forcibly took away the gold ornaments worn by the informant's wife and also assaulted the informant and his family members. Consequently, a report was lodged.

3. The learned counsel submits that the applicants have no connection to the alleged crime. The applicants claim false implication. They assert it is effected merely on suspicion. The investigation is complete, with recovery already made from a co-accused. Nothing further remains to be recovered from the applicants. A Test Identification Parade was conducted, but the identification was not confirmed. It is therefore prayed that the applicants be released on bail.

4. The learned A.P.P. has opposed the applications, submitting that the offence is of a serious nature. The gold ornaments were stolen, and recovery of the same was effected at the instance of the applicants. *Prima facie* sufficient material establishes the applicants' complicity in the offence. Furthermore, the applicants are habitual offenders with three prior antecedents. The victims sustained grievous injuries. Hence, it is submitted that the applicants should not be granted bail.

5. Having heard the respective counsel from both the sides and upon perusal of the material on record, including the chargesheet indicates the applicants were named as accused during the investigation. The learned A.P.P. has fairly conceded that the

applicants were not identified during the Test Identification Parade.

6. *Prima facie*, there is no other material on record that links the applicants to the alleged crime. Pertinently, the validity and procedural aspects of the Test Identification Parade can be fully addressed and appreciated during the trial proceedings. However, at present, there is, *prima facie*, no other incriminating material evident against the applicants in the record.

7. As far as the criminal antecedents against the applicants are concerned, it is a settled position of law that a prior history cannot be used as the sole basis to withhold an applicant's liberty. Thus, the apprehension expressed by the learned A.P.P. regarding the potential for future offences can be sufficiently addressed by imposing stringent bail conditions.

8. The investigation is complete for all intent and purpose, resultantly, the chargesheet is filed. Having regard to the number of the accused and the number of witnesses which the prosecution proposes to examine, it is very unlikely that the trial can be commenced and concluded within a reasonable period. As such, further incarceration of the applicants as an under-trial prisoner, in the circumstances of the case does not seem to be either warranted or justifiable. I am, therefore, persuaded to exercise the discretion in favour of the applicants.

9. Apart from aforesaid aspects, the co-accused are already enlarged on bail. As such, on the ground of parity also the request of the applicants for bail warrants consideration. Therefore, no purpose would be served by keeping the applicants behind the bars for indefinite period. The apprehension expressed by the learned APP can be adequately taken care of by imposing stringent conditions. Thus, I am inclined to exercise discretion in favor of the applicants.

10. Hence, the order:-

ORDER

- (i) The bail applications are allowed.
- (ii) Applicants, Bhaiyya Kadu Kale and Kisan @ Vijay Gautam Kale, be released on bail, upon furnishing P.R. bond in the sum of Rs.50,000/- (Rs.Fifty Thousand) with one or two local solvent sureties, in the like amount, in connection with Crime No.447 of 2025 dated 10.06.2025 registered with Police Station Police Station M.I.D.C. Ahilyanagar, for the offences punishable under Sections 310(2) and 311 of the *Bharatiya Nyaya Sanhita, 2023*, on the following conditions :-
 - (a) The applicants shall not pressurize the prosecution witnesses and tamper with the prosecution evidence, in any manner.

- (b) The applicants shall attend the trial on each and every date unless exempted by the trial Court and shall not leave the area of jurisdiction of the concerned Police Station till conclusion of the trial.
 - (c) The applicants shall submit Aadhar and Pan Cards to the Investigating Officer and detailed address and phone numbers and two of the near relatives.
 - (d) In case of breach of any of the conditions by the applicants, it is open for the Prosecution to move this Court seeking cancellation of bail.
- (iii) Needless to state that the observations rendered herein are to the extent of these applications and the trial Court shall not be influenced by the same.

[SACHIN S. DESHMUKH]
JUDGE

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