



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

29 BAIL APPLICATION NO. 711 OF 2026

AVINASH ALIAS AAVYA GOVINDA NIKAM

VERSUS

THE STATE OF MAHARASHTRA AND ANOTHER

WITH

CRIMINAL APPLICATION NO.1751 OF 2026

IN BA/711/2026

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Advocate for Applicant : Mr. Salunke Sudarshan J.

APP for Respondents-State : Ms. P. V. Diggikar.

Advocate for Applicant to Assist APP : Mr. Ladda S. G.

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WITH

BAIL APPLICATION NO. 698 OF 2026

1. PRADIP ALIAS BANDU SHIVSING RAJPUT

2. SATISH @ BABA SANTOSH RAJPUT

VERSUS

THE STATE OF MAHARASHTRA

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Advocate for Applicants : Mr. Surse Sunil B.

APP for Respondent/s-State : Ms. P. V. Diggikar.

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CORAM : SHAILESH P. BRAHME, J.

DATE : 05.05.2026

PER COURT :-

1. Heard both sides.
2. The applicants are seeking enlargement on bail in respect of offence bearing Crime No.258 of 2025, registered with Kannad Rural Police Station, District Chh. Sambhajinagar,

for the offences punishable under Sections 103(1), 118(1), 115(1), 189(2), 189(4), 190, 191(2), 191(3), 115(2), 351(3), 352, 238 of the Bharatiya Nyaya Sanhita.

3. It is reported to the police that the cousin of the informant deceased Shubham was at the loggerhead with main perpetrator Amol Dashrath Nikam. Amol is alleged to have been in relationship with one Rani Bhikan Wagh which was not approved by deceased Shubham. There used to be dispute between them on that count. On the fateful day, in the evening at 7.00 p.m., there was exchange of words between them. Thereafter, at about 8.30 p.m., the deceased Shubham was intercepted by accused including the present applicants. Co-accused Amol was holding a scythe and his brothers were armed with sticks. There was again quarrel between them and assault by the accused person. Shubham was being assaulted by Sachin and Shankar by sticks. It is specifically stated in the complaint that Amol assaulted Shubham by scythe on his neck due to which injuries are sustained on the neck and the fingers. Applicants Avinash, Bandu and Satish are alleged to have abused and assaulted by fist and blows.

4. Learned counsels for the applicants would submit that applicants were not armed with any weapon and assault by fist

and blows is only attributed to them. As against that Amol and his brothers were armed with weapons. The fatal blow is alleged to have given by Amol on the neck of the deceased. The injuries reported in column No.17 can be attributable to the main perpetrator considering the cause of death. The statement of the eye witnesses would also indicate the venial role played by the applicants. In absence of any motive or recovery of any weapon, the criminal liability for offence of murder cannot be attracted.

5. It is additionally submitted by learned counsel for the applicants that the photographs produced on record would indicate that Shubham himself was seen on motorcycle with a scythe. There was no enmity between the parties and the applicants are falsely implicated in the offence.

6. Per contra, learned APP repels the submissions by diverting my attention to the statements of eye witnesses namely Vinayak, Jaising, Akash, Shubham, Abhijit and Samyak who are consistent with the prosecution case. The prosecution case is said to have been corroborated by statements of Vinayak and Samyak recorded under Section 183. The transcript of CCTV footage would also indicate involvement of the applicant and they are being identified. The photographs

are also relied upon to show that after incident the applicants are seen fleeing away from the spot. The assault is stated to be premeditated and it was with an intention to eliminate Shubham. By implication of Section 149 of B.N.S., the liability of the present applicant is co-extensive with main perpetrator.

7. Learned counsel Mr. Laddha appearing for the applicant who is permitted to assist learned APP would additionally submit that CDR report would show involvement of the applicants. The assault was with common object to eliminate Shubham. The incitement given by one of the co-accused would indicate the motive. It cannot be inferred that applicants did not cause any injuries to the deceased.

8. There are in all seven eye witnesses whose statements are consistent besides that there are statement of two witnesses recorded under Section 183 of B.N.S.S. At this stage of the proceeding, the presence of the applicant at the relevant time cannot be disputed. The First Information Report as well as statement of the witnesses would indicate that deceased Shubham and accused No.1 Amol were at logger head. They had issues over the relationship of Amol with a lady.

9. I have not been shown any material by the respondent to indicate that present applicant had any motive or deceased

Shubham had any grudge against them. It has been unequivocally and consistently brought on record that applicants were not armed with any weapon. As against that Amol, Sachin and Shankar were armed with weapon. The fatal blow was given by scythe on vital part of the body i.e. neck.

10. I have gone through column No.17 of Post Mortem Report which indicates four injuries. Out of them, injury No.1 is on neck which is on the vital part of the body. The injury Nos.2 and 3 are shown to be on ring finger, index finger and thumb amputting the fingers. The last injury is an abrasion on right elbow, left elbow and left knee. The cause of death is recorded to be "Haemorrhagic shock due to severance of vital structures in left side of neck (Carotid artery and Veins). Considering the statements of the witnesses, the author of the injury Nos.1 to 3 can be said to be main perpetrator Amol who was holding scythe. At the most, it can be inferred that applicants can be author of injury No.4 which was in the form of abrasion on non-vital part of the body.

11. The statements of the witnesses would disclose that deceased Shubham as well as accused Amol were vociferous and they were abusing and uncontrollable possession at the relevant time. All the persons present over there did not stop

them from rushing at each other. Present applicants were there at the instance of Amol. The absence of any weapon with them would indicate that they had not come to the spot with any preparation. In all probabilities, they might have arrived there to support or safeguard Amol.

12. Considering the nature of the assault, incitement and the weapons used in the offence, I am of the considered view that no *mens rea* can be attributed to the applicants to eliminate Shubham. No material is pointed out to show meeting of minds, common object or preparedness to eliminate Shubham. *Prima facie*, the liability of the applicants cannot be inferred to be co-extensive by implication of Section 149 of B.N.S.S. However, it would be matter of inquiry after full-fledged trial.

13. The CCTV footage as well as photographs would show presence of the accused. Their presence and participation by assaulting the deceased by fist and blows would not be the ground to keep them behind bars. They are behind bars since 16.10.2025. The charge-sheet is filed and their further incarceration is unwarranted. One criminal antecedent is pitted against applicant Avinash. If the stringent conditions are imposed the apprehension can be curtailed. I, therefore, pass the following order :

ORDER

- (i) Bail Applications are allowed.
- (ii) Applicants **AVINASH ALIAS AAVYA GOVINDA NIKAM, PRADIP ALIAS BANDU SHIVSING RAJPUT** and **SATISH @ BABA SANTOSH RAJPUT** shall be released on bail in Crime No.258 of 2025, registered with Kannad Rural Police Station, District Chh. Sambhajinagar, for the offences punishable under Sections 103(1), 118(1), 115(1), 189(2), 189(4), 190, 191(2), 191(3), 115(2), 351(3), 352, 238 of the Bharatiya Nyaya Sanhita, on furnishing P. R. bond of Rs.50,000/- (Rupees fifty thousands only) each with one solvent surety of like amount each on the following conditions :
- (a) The applicants shall not tamper with the prosecution evidence or contact the prosecution witnesses.
- (b) The applicants shall not enter Nagad, Taluka Kannad, District Chh. Sambhajinagar till conclusion of the trial.

- (c) The applicants shall furnish their whereabouts and contact numbers to the Investigating Officer.
 - (d) The applicants shall surrender their Aadhar Card and PAN Card to the Investigating Officer, if any.
 - (e) The applicants shall co-operate for expeditious disposal of the trial and attend the dates punctually.
- (iii) Bail applications are disposed of accordingly.
 - (iv) Criminal application to assist learned APP is allowed and disposed of accordingly.

(SHAILESH P. BRAHME, J.)

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