



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPEAL NO. 81 OF 2026

Chetan Nimbaji Choudhari

..APPELLANT

VERSUS

State of Maharashtra and Another

..RESPONDENTS

....

Mr. S.M. Kulkarni, Advocate for appellant

Mr. V.M. Chate, A.P.P. for respondent no.1 – State

Mr. Nilesh Bhagwat, Advocate for respondent no.2 (Appointed through Legal Aid)

....

CORAM : ABHAY J. MANTRI, J.

DATE : 18th APRIL, 2026

PER COURT :

. The Appellant / Accused No.2 has filed this Appeal for releasing him on bail in connection with Crime No. 258 of 2025 registered at Nandurbar Upnagar Police Station, Dist. Nandurbar for the offences punishable under Sections 103(1), 109, 352, 351(1)(3), 3(5), 49, 353(2), 351(3) r/w 3(5) of the Bharatiya Nyaya Sanhita, 2023, (for short, '**BNS**') and under Sections 3(1)(r), 3(2) and 3(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989. (for short, '**SC & ST Act**').

2. Heard Mr. Kulkarni, learned counsel for the Appellant, Mr. Bhagwat, learned counsel for Respondent No.2 and learned A.P.P. for the State.

3. On 16th September, 2025, at about 07:30 p.m., the incident occurred in Vijay Collection Cloth Shop as well as in front of the said shop and during the quarrel, Accused No.1 – Suryakant Marathe gave a blow of a knife on the person of the deceased and caused grievous injury to him. The deceased succumbed to the said injury. Accordingly, the informant, Ajay, lodged the report. Based on the said report, the offence as stated above came to be registered against the Appellant and Accused No.1 - Suryakant.

4. In the F.I.R., it is alleged that the Appellant had instigated and provoked Accused No.1 – Suryakant in committing the crime instead of stopping the quarrel between Accused No.1 and the deceased. Pursuant to the F.I.R., the Appellant was arrested on 18th September, 2025. The Appellant had filed an application for bail before the learned Sessions Court. The learned Sessions Judge, vide order dated 17th January, 2026, rejected the said application. Hence, the Appellant has preferred this Appeal seeking his release on bail.

5. Learned counsel for the Appellant vehemently contended that the Appellant was not involved in the commission of the crime, nor did he even actively participate. The only allegation against him is that he has instigated and provoked Accused No.1 – Suryakant to commit the crime, and supported him. He abused the deceased with a caste slur. He submits that nothing has

been recovered at the instance of the Appellant, and therefore, it is not necessary to detain the Appellant behind bars. Lastly, he submits that the Appellant is ready to reside outside Nandurbar District, except for the day on which he would have to attend the Court proceedings. Hence, he urged for the grant of bail.

6. On the other hand, learned A.P.P and learned counsel for Respondent No.2 strenuously opposed the Appeal seeking to grant bail. They contended that the Appellant, being a Police Personnel, was duty-bound to stop the quarrel between the Accused No.1 – Suryakant and the deceased with a view to maintaining peace and law and order. Instead, the Appellant instigated and provoked Accused No.1 to commit the crime. He supported Accused No.1 in the commission of the crime. He also abused the deceased with a caste slur. Lastly, they submitted that if the Appellant is released on bail, he will certainly try to tamper with the prosecution evidence or will exert influence on the witnesses; therefore, they urged dismissal of the Appeal.

7. Having considered the rival submissions of the parties and going through the record, at the outset, it appears that, prima facie, no specific allegation appears against the Appellant for causing assault on the person of the deceased, but the only allegation against him is that he had instigated

and provoked Accused No.1 to commit the crime. He supported him in committing a crime. And he abused the deceased with a caste slur. However, the eyewitnesses have not stated anything against the Appellant or his role in the commission of the crime. From the charge-sheet, prima facie, it does not reveal that the Appellant had actively participated in the crime and assaulted the deceased by means of any weapon. It is pertinent to note that nothing has been recovered from the possession of the Appellant. It also appears that the Appellant is a Police Personnel and since 18th September, 2025, he has been in jail. The investigation has been completed, and the charge sheet has been filed in the Court. The Appellant is police personnel and a permanent resident of Nandurbar District, and no possibility of absconding. Accordingly, in my view, it would not be appropriate to detain the Appellant behind bars. However, to dispel apprehension, stringent conditions can be imposed upon him.

8. As a result, the **Criminal Appeal is allowed in terms of prayer clauses A and B as prayed.**

9. The Appellant - Chetan Nimbaji Choudhari be released on bail in connection with Crime No. 258 of 2025 registered with Nandurbar Upanagar Police Station, Dist. Nandurbar for the offences punishable under Sections 103(1), 109, 352, 351(1)(3), 3(5), 49, 353(2), 351(3) r/w 3(5) of the

Bharatiya Nyaya Sanhita, 2023 and under Sections 3(1)(r), 3(2) and 3(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, on furnishing P.B. and S.B. of Rs.1,00,000/- (Rupees One Lakh) with one or two solvent sureties in the like amount on the following conditions:-

- (i) The Appellant shall not tamper with the prosecution evidence in any manner till conclusion of the trial.
- (ii) The Appellant shall not enter Nandurbar District till the conclusion of the Trial, except for the day on which he would have to attend the Court proceedings.
- (iii) The Appellant shall not leave India without prior permission of the Court till the conclusion of the trial.

10. Bail before the learned Trial Court.

11. Needless to clarify, Mr. Nilesh Bhagwat, learned counsel, was appointed through Legal Aid to represent Respondent No.2. As such, his fees will be quantified by the High Court Legal Services Sub-Committee, Aurangabad, as per the rules.

(ABHAY J. MANTRI, J.)

SSD