



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPEAL NO. 104 OF 2026

SANDEEP MADHUKAR LOHAR

VERSUS

THE STATE OF MAHARASHTRA AND ANOTHER

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Advocate for Appellant : Mr. Khedkar Prashant N.

APP for Respondent No. 1 : Mr. S.N. Morampalle

Advocate for Respondent No. 2 : Mr. H. P. Jadhav

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CORAM : ABHAY J. MANTRI, J.

DATE : 24TH APRIL, 2026

PER COURT :

1. The Appellant being dissatisfied with the order dated 26.12.2025, passed by the learned Special Judge, Omerga, below Exhibit 40 in Special Case (ATRO) No. 43/2025, thereby rejected the bail Application in connection with Crime No. 506/2025 registered at Omerga Police Station, District Dharashiv, for the offences punishable under Sections 103(1), 238, 61(2), 351(4), 3(5) of the Bharatiya Nyaya Sanhita, 2023, and under Sections 3(2)(v) of the Scheduled Castes and Scheduled Tribes, Act, 1989, has preferred this Appeal.

2. Heard the learned Advocate for the Appellant, learned Advocate for Respondent No. 2 and learned APP for the State. Perused the Appeal memo and a copy of the charge-sheet.

3. It appears that the son of the Informant, Abhishek, was missing from the home. Therefore, on 25.05.2025, the Informant, Kalidas, gave missing report in the Police Station. Later on, the police informed him that they found one body lying on the Bypass Road near the field of Ankush Shinde. The informant went there and identified the said body as that of his son. Accordingly, he gave the report against Saroja, Renu and Anita. During the investigation, the name of the Appellant, as well as that of one Akshay, was implicated in the crime. Police arrested Appellant and Akshay. Therefore, Appellant has moved Application below Exhibit 40 for the grant of bail. The same was rejected by an order dated 26.12.2025. As such, he has preferred this Appeal.

4. Learned Advocate for the Appellant vehemently contended that the Appellant has not committed any crime, but on suspicion, he was arrested for the present crime on the basis of the recovery of a stone at his instance. He further argued that the co-accused, Akshay, against whom similar allegations are levelled, was released on bail. Therefore, on the grounds of parity, the Appellant is entitled to bail. During the argument, he has taken me to the post-mortem report. The opinion of the Medical Officer, statement of Amol and the Informant recorded under Section 183 of the Bharatiya Nyaya Suraksha Sanhita (for short

‘*the BNSS*’) and the bail order passed in favour of the co-accused Akshay. He further submitted that the other accused, Saroja, Renu, and Anita, have already been released on bail. The investigation has been completed, and the charge sheet has been filed in the court. Therefore, it would not be appropriate to detain the Appellant behind bars. Hence, he urged that he be released on bail.

5. As against, learned APP and learned Advocate for the Respondent No. 2, strenuously opposed the bail application, contending that Appellant has committed the crime and at his instance, the police have recovered the stone. Therefore, there is sufficient material against him to connect him with the present crime. The offence is serious, and therefore, they urged for the rejection of the Appeal. It is pertinent to note that in the case at hand, three accused persons mentioned in the FIR have been released on bail. Similarly, the co-accused Akshay, against whom similar allegations appeared, is also released on bail. The investigation is complete, and the charge sheet has been filed.

6. The only allegation against the Appellant is that one stone was recovered at his instance. However, the said stone does not have any bloodstains. Therefore, *prima facie*, it would be difficult to infer that the said stone was used in the commission of the crime.

7. Apart from that, the Doctor gave his opinion on 03.08.2025, answered the query raised by the Investigating Officer that the injuries mentioned in the Postmortem report were caused ***by a sharp, hard and jagged weapon and within 24 hours***. However, the stone was not produced before the Medical Officer. The Medical Officer gave his opinion on 03.08.2025, and the stone was recovered on 23.08.2025, at the instance of the Appellant. The perusal of the panchanama under Section 23 of the BNSS shows that the said stone has no bloodstains.

8. The charge-sheet has been filed, and nothing remains to be recorded; besides, prima facie, the recovery of the alleged stone would be difficult to infer that the said stone was used in the commission of the crime. In such an eventuality, in my view, on the grounds of parity, the Appellant is entitled to be released on bail. However, to dispel the apprehension of the prosecution, stringent conditions can be imposed on the Appellant, while releasing him on bail.

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

10. The Appellant namely Sandeep Madhukar Lohar, be released on bail in connection with Crime No. 506/2025 registered at Omerga Police Station, District Dharashiv, for the offences punishable under Sections 103(1), 238, 61(2), 351(4), 3(5) of the Bhartiya Nyaya Sanhita, and under Sections 3(2)(v) of the Scheduled Castes and

Scheduled Tribes, Act, 1989, *on furnishing PB and SB of Rs. 1,00,000/- [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.
- iv] Bail before the Trial Court.

11. Learned Advocate Mr. H.P. Jadhav, **appointed by the Secretary, 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.)