



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPEAL NO. 317 OF 2026

Rahul Shantaram Sonawane

...Appellant

Versus

The State of Maharashtra and Another

...Respondents

Mr. Rathi Swapnil S., Advocate for the Appellant.

Mr. V. S. Badakh, APP for Respondent – State.

Mr. Jay Veer, Advocate for Respondent No.2.

CORAM: ABHAY J. MANTRI, J.

DATE : MAY 08, 2026

PER COURT :

1. The Appellant, being dissatisfied with the order dated 27th April 2026 passed by the learned Additional Sessions Judge, Bhusawal in Criminal Bail Application No.130 of 2026, thereby rejecting the Bail Application in connection with Crime No. 450 of 2025 dated 03rd December 2025, registered with Yawal Police Station, for the offences punishable under Sections 103(1), 189(2), 189(3), 191(2), 191(3), 126(2), 140(1), 238 and 61 (2) (A) of the Bharatiya Nyaya Sanhita, 2023 (for short "**BNS**") and Sections 3(2) (v), 3(2) (va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short "**SC & ST Act**"), has preferred this Appeal for grant of bail.

2. Heard Mr. Rathi, learned counsel appearing for the Appellant, at length, Mr. Veer, learned counsel appearing for Respondent No.2, and Mr. Badakh, learned APP for the Respondent–State, and have gone through the impugned order as well as a copy of the charge-sheet with their assistance. Learned counsel for Respondent No.2 tendered across the bar the Vakalat Nama. The same is taken on record.

3. The thrust of the argument of the learned counsel for the Appellant is that the Appellant has not committed any offence and has no concern with the present crime, but merely, based on suspicion, his name was implicated in the present crime. He has taken me through various statements of witnesses, transcription of the CCTV footage, statements of Doctors, and submitted that, as per the statements of the Doctors, the injured was not in a position to speak, as he was under the influence of liquor and in an unconscious condition. He was in a semi-conscious and dehydrated condition and therefore not able to speak. The Appellant is not acquainted with the deceased. Nothing has been brought on record to show that the Appellant had any grudge against the Deceased. No material has been brought on record to prima facie connect the Appellant with the present crime, but the case is based on circumstantial evidence against the present Appellant.

4. He further canvassed that, even for the sake of argument, if it is assumed that, as per the FIR, the Appellant's name is shown as a mastermind

of the said conspiracy, nothing appears from the charge-sheet to show that the Appellant hatched the conspiracy with the co-accused prior to the occurrence of the incident. The CCTV footage produced on record is after the incident; therefore, it is not helpful to the prosecution. The hotel Chandra Lok was inaugurated on 16th December 2025, and the incident occurred on 02nd December 2025. This raises doubts about the seizure of CCTV footage from the Chandra Lok Hotel, which did not exist.

5. Lastly, he drew my attention to the FIR and the supplementary statement of the informant recorded immediately after the second day of registration of the FIR. He submitted that, as per the allegations made in the FIR, the Appellant, along with accused Vikram and 5–6 persons, stopped the deceased, Tushar and assaulted him by means of sticks and kicks and fist blows. However, in the supplementary statement recorded the next day after the FIR was registered, no allegation was made against the Appellant; his name was excluded as an assailant, and only his role as the mastermind of the said conspiracy was stated. He submitted that the prosecution prima facie failed to demonstrate that the appellant had any connection with the present crime. Nothing is required to be recovered from the Appellant; therefore, custodial interrogation of the Appellant is not required. As such, he urged that he be released on bail.

6. On the other hand, learned counsel for Respondent No. 2 and the learned APP strenuously opposed the application, contending that the Appellant is the mastermind of the said incident. Learned APP, during the course of arguments, took me through the CDR (page No.358) and submitted that on 02nd December between 05:00 p.m. and 05:05 p.m., two phone calls were made between Accused Vikram Sonawane and the Appellant; therefore, it can be said that before the occurrence of the incident, the Appellant hatched the conspiracy with Accused Vikram Sonawane. In response, learned counsel for the Appellant submits that no authenticated report has been produced on record to show that the mobile number belongs to Accused Vikram and that no report has been collected from the service providers, and, therefore, it is very difficult to connect the Appellant with the present crime.

7. Learned counsel for Respondent No.2 read over the statement of witness Mohan Sapkale and submitted that the first information report corroborates his statement; therefore, he submitted that the same indicates that Appellant is the mastermind of the said incident, and therefore urged for dismissal of the Appeal.

8. Having heard the rival submissions of the learned counsel for the parties and perusal of the record, at the outset, it appears that on 02nd December 2025 at about 07:00 p.m., the incident occurred on the road leading from village Parsade to Jalgaon. No statement of any eyewitness has

been recorded. Still, after the occurrence of the incident, the deceased was taken to the Sai Hospital by unknown persons, who were later disclosed as the accused persons. Thereafter, the deceased was shifted to the Rural Hospital, Yawal and from Yawal to City Civil Hospital, Jalgaon. The FIR was lodged by the father of the deceased.

9. In the FIR, it is alleged that his son, deceased Tushar, along with his friend, had created and uploaded a video on Instagram in which they verbally abused Appellant and accused Vikram Sonawane; harbouring resentment over this incident, Accused Vikram and Rahul, along with 6 to 7 persons, assaulted him. Due to the said assault, he died. However, the alleged video recording was neither seized nor included in the charge sheet. None of the witnesses has stated that they have seen the said video and the alleged abuses given by the deceased and his friend to Vikram and Rahul. The motive to commit the crime, as per the prosecution's story, is prima facie absent from the charge sheet. However, in the supplementary statement of Chandrakant, which was recorded on the next day of registration of the FIR, wherein he specifically stated that on the day of the incident, the assailants, Accused Vikram Sonawane and his associates, i.e. Nilesh, Avinash, Kalpesh Vijay and two others, assaulted the deceased, Tushar, by means of sticks and kicks and fist blows. He did not state the Appellant's name as an assailant, but only alleged that the Appellant was the mastermind of the said conspiracy.

However, the prosecution, prima facie, failed to show from the charge-sheet that the Appellant hatched any conspiracy with the accused persons or that, on his instructions, the other accused persons committed the crime. The prosecution, prima facie, failed to establish the Appellant's motive for committing the crime. The CDR produced on record prima facie does not evidence that the Appellant, by making the call, hatched the conspiracy with the accused, Vikram.

10. According to the learned APP, the deceased made an oral DD to Babasaheb Bhalerao, who was accompanied by Chandrakant at Rural Hospital, Yawal, and, as per his statement, during the treatment, the deceased stated to him that Vikram Sonawane and Rahul, along with 6–7 persons, had assaulted him. However, his statement, as well as the averments made in the first information report, appear to be inconsistent with the statements of Doctors Gaurav Dhande and Prashant Jawale. Dr. Gaurav Dhande, the owner of Sai Accident Hospital, where the deceased was taken, by unknown persons, stated that the injured person's condition was critical and that he was therefore referred to the Rural Hospital in Yawal. The injured only stated his name to him. His B.P. was very low and not visible on the B.P. Machine; therefore, he was referred to the Rural Hospital.

11. Another witness, Dr. Prashant, Medical Officer, Rural Hospital, stated that the injured was under the influence of liquor and his B.P. was low.

On enquiry, he was unable to state how he was injured. Thereafter, his father and Babasaheb came there. It also appears from a Medical Case Record of the Rural Hospital that “*the patient was under the influence of alcohol and not able to talk and did not give any history of assault.*” The said history was recorded on 02nd December 2025 at 08:50 p.m. at Rural Hospital, Yawal. Similarly, on 02nd December 2025 at about 09:00 p.m., the medical case record shows that “*the history of assault was recorded as that the injured was in a semi-conscious and dehydrated condition*”; therefore, prima facie, it creates a doubt regarding the history narrated by the injured Tushar to his father and witness Babasheb. Therefore, I find substance in the contention of the learned counsel for the Appellant that when the father of the deceased and his relative Babasaheb came to the Rural Hospital, at that time the injured was not in a condition to speak; therefore, the question of his stating details of the alleged incident to them prima facie does not arise.

12. Perused the postmortem report. It appears that 36 injuries were sustained by the injured, and his cause of death is mentioned as “*hemorrhage and shock due to multiple injuries associated with head injuries.*” The Police also recovered the sticks at the instance of Accused Avinash and Kalpesh. The learned APP contends that the Investigating Officer has to recover one mobile belonging to Vikram Sonawane, which is in the possession of the Appellant. However, on a query, prima facie, he failed to point out from the

charge-sheet on what basis the Investigating Officer is saying that he wants to recover the mobile belonging to Vikram, which is alleged to be in the Appellant's possession. Nothing has been brought on record by the prosecution in the charge-sheet to show that Accused Vikram's mobile is in possession of the Appellant or that the SIM card bearing no. 8830583737 was in his name. Having considered the same, it prima facie appears that no weapon used in the present crime remains to be recovered.

13. In the light of the above detailed discussion, it appears that the prosecution has prima facie failed to show that the Appellant hatched the conspiracy with the other accused persons or that he was actively involved in the crime. On the contrary, the supplementary statement of the father of the deceased indicates that five assailants were there and the Investigating Officer has arrested them all. His presence at the scene of the incident is omitted from the informant's supplementary statement. No weapon remains to be recovered. It also appears that the Investigating Officer has completed the investigation and filed a charge sheet against five accused persons before the Court. In the charge-sheet, the note is given as: *“Accused Rahul is absconding from the date of the incident, and they want to arrest him and collect the material against him.”* However, prima facie, the prosecution has failed to demonstrate that the Appellant was present at the scene or an assailant at the time of the incident. Nothing remains to be recovered in the

present crime.

14. In view of the above, in my opinion, the Appellant is entitled to pre-arrest bail. However, to dispel the prosecution's apprehension, stringent conditions can be imposed on him while releasing him on bail.

15. As a result, **the Appeal is allowed in terms of prayer clause (b).**

16. In the event of the arrest of the Appellant, he shall be released on bail in connection with Crime No. 450 of 2025, registered with Yawal Police Station, for the offences punishable under Sections 103(1), 189(2), 189(3), 191(2), 191(3), 126(2), 140(1), 238 and 61 (2) (A) of the Bharatiya Nyaya Sanhita, 2023 and Sections 3(2) (v) and 3(2) (va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, **on his furnishing P.B. and S.B. of ₹2,00,000/- with one or more solvent sureties, on the following conditions:**

- (i) The Appellant shall attend Yawal Police Station on 18th May 2026 between 11:00 a.m. and 01:00 p.m. and thereafter as and when called by the Investigating Officer till filing of the charge-sheet.
- (ii) The Appellant shall not tamper with the prosecution evidence in any manner till the conclusion of the Trial.
- (iii) The Appellant shall not leave India without prior permission of the Court till the conclusion of the Trial.

17. Needless to clarify that the observations made in this order are prima facie in nature, consider facts to the extent of the grant of pre-arrest bail to the Appellant, and that the Trial Court shall not be influenced by the observations made herein above in the matter.

18. The **Appeal is disposed of.**

(ABHAY J. MANTRI, J.)