



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

BAIL APPLICATION NO. 152 OF 2026

Gemsing S/o Mehram Rathod,
Age : 65 Years, Occu. : Agril.,
R/o Ivleshwar Mahur,
Tq. Mahur, Dist. Nanded. .. Applicant

Versus

The State of Maharashtra .. Respondent

Shri Abhaysinh K. Bhosle, Advocate for the Applicant.
Shri G. O. Wattamwar, A.P.P. for the Respondent – State.

CORAM : SHAILESH P. BRAHME, J.
DATE : 06TH APRIL, 2026.

FINAL ORDER :

. Heard both sides. Applicant is seeking enlargement on bail in respect of offence bearing Cr. No. 01/2024 registered with Mahur Police Station, Dist. Nanded for the offences punishable U/Sec. 302, 307, 326 r/w 34 of the Indian Penal Code.

2. It is reported to the police by wife of the deceased Hariom Jadhav that on 30.12.2023 there was quarrel in between accused persons and the informant and deceased. They are adjoining land owners. The accused are stated to have purchased land and they were prohibited from approaching their land through the land of the informant, which resulted into fight. It is alleged that applicant was armed with stick and co-accused were armed with

iron rod and knife. They are alleged to have assaulted informant and her husband.

3. Learned counsel for the applicant submits that he was arrested on 04.01.2024. Charge sheet is filed on 02.04.2024. There is no substantial progress in the trial. Applicant was holding a stick. Injury certificate and column No. 17 of the postmortem report do not show any injury at the instance of the applicant. It is submitted that applicant is 67 years old and there are no antecedents.

4. Per contra, learned Asstt. Public Prosecutor points out that there are independent eye witnesses. Applicant actively participated in the assault with the stick. The weapon query report supports the prosecution theory. Weapon is recovered from the applicant. The charge is framed on 22.07.2025. It is submitted that this is successive bail application which cannot be entertained in the absence of any change in circumstances.

5. Perusal of the papers especially first information report and the statements of the witnesses namely Manisha Vikas Jadhav, Komal Balu Jadhav and Reshma Shrikant Jadhav disclose the presence of the applicant at the relevant time. He was armed with stick and participated in the assault along with co-accused. Co-accused were armed with rod and knife.

6. The motive as can be inferred from the papers is that there

was quarrel of the informant with the earlier owner of the adjoining land. Applicant and co-accused are alleged to have purchased the land from the adjoining owner. On the fateful day the dispute erupted due to tress pass of the accused persons in the field of the informant. The possibility of rivalry cannot be ruled out. At this juncture, it cannot be inferred that the rivalry was of such a nature so as to have *mens rea* to eliminate the deceased. Of course, it would be matter of trial and objective scrutiny to arrive at a definite conclusion in this regard.

7. Applicant is 67 years old. He was armed with stick and he is alleged to have inflicted blows by stick. The postmortem report discloses number of injuries. The majority of injuries are possibly to have been inflicted by sharp weapon. The recovery of weapon and report of weapon query are not decisive factors to deny bail to the applicant.

8. Applicant is arrested on 04.01.2024. Charge sheet is filed on 02.04.2024. Charge is framed on 22nd July, 2025. The recording of evidence has not been commenced, albeit, summons to the witnesses have been issued. As per charge sheet twenty witnesses are to be examined by the prosecution. All of them may not be examined, but the fact remains that trial is not likely to be concluded within some time. There is sufficient incarceration. I am inclined to grant bail to the applicant. I, therefore, pass following order.

O R D E R

- A. The bail application is allowed.
- B. Applicant – Gemsing Mehram Rathod shall be released on bail in respect of Cr. No. 01/2024 registered with Mahur Police Station, Dist. Nanded for the offences punishable U/Sec. 302, 307, 326 r/w 34 of the Indian Penal Code on condition of furnishing P. R. bond of Rs. 20,000/- (Rs. Twenty thousands only) with one solvent surety of like amount.
- C. The applicant shall not tamper with prosecution evidence or contact with the prosecution witnesses.
- D. Applicant shall stay away from village Ivleshwar Mahur, Tq. Mahur, Dist. Nanded till conclusion of the trial.
- E. He shall furnish his mobile/cell number and address to the Investigating Officer.
- F. The applicant shall cooperate for the expeditious disposal of the trial.
- G. Bail application is disposed of.

[SHAILESH P. BRAHME J.]