



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO. 197 OF 2026

Rutika Milind Dhere

..APPLICANT

VERSUS

State of Maharashtra and Another

..RESPONDENTS

....
Mr. S.J. Salunke, Advocate for applicant
Mr. S.V. Hange, A.P.P. for respondents
....

CORAM : RAJNISH R. VYAS, J.
DATE : 17th MARCH, 2026

PER COURT :

. Initially the F.I.R. No. 437 of 2025 was lodged for the offences punishable under Sections 94 and 3(5) of the Bharatiya Nyaya Sanhita, 2023 (hereinafter referred to as 'BNS') on 15th July, 2025 with Pathari Police Station, Dist. Parbhani at the instance of one Amol Jaiswal. In the said F.I.R. the present applicant is shown as Accused No.1, whereas Altaf Shaikh is shown as Accused No.2.

2. In short, it is the case of prosecution that on 15th July, 2025 when the applicant alongwith Altaf Shaikh were traveling in the bus, they threw a newly born baby from the moving bus, which was noticed by one of the traveler on the road and said information was supplied to the police station by dialing help line no.112. It is on the basis of aforesaid information, criminal law was set in motion. The present applicant was arrested in the crime on 15th July,

2025 so also the co-accused. After completion of investigation, charge-sheet was filed in which Section 103(1) of the BNS was added subsequently.

3. During the course of investigation, the body of neonate was collected from the spot and the sample collected were forwarded for DNA examination.

4. In the aforesaid background, learned counsel for the applicant has contended that initially the F.I.R. was lodged for the offence punishable under Section 94 of the BNS, and therefore, it is crystal clear that what was shown was dead body of the fetus and not the neonate having life. He, therefore, submitted that charge of murder under Section 103 of the BNS is not at all made out.

5. Per contra, learned A.P.P. has contended that statements of the witnesses would clearly reveal that it was the applicant, who had thrown away the fetus out of the moving bus, and therefore, there is clinching evidence against her. Learned A.P.P. further contended that the DNA report clearly shows that it was accused persons, who were the biological parents of the said fetus. Therefore, application may be rejected.

6. With the assistance of both the counsels I have gone through the charge-sheet. At the outset, it is necessary to mention here that though initially offence under Section 94 of the BNS was registered, subsequently offence under Section 103(1) of the BNS was added. The question is whether the neonate or which was thrown out of the moving bus was alive at the time of incident or

not. It is further necessary to clarify that while deciding the bail application, mini trial cannot be conducted. If postmortem report is perused, more particularly column no. 18(a), it would reveal that the injuries sustained by the neonate were antemortem. The cause of death was head injury. The age of fetus was 8-9 months.

7. Coming to the second contention that it was not the present applicant, who had thrown away the fetus, suffice it to say that the statement of Chaya Bhande, clearly shows that moment after the incident when this witnesses enquired, Accused No.2 had informed her that since the baby was delivered by the present applicant, he wrapped the same in a jacket and handkerchief, and thereafter thrown out. The aforesaid material prima facie shows that there is enough evidence to connect the applicant to crime. Further the DNA report also shows that it is the present applicant and the co-accused are the biological parents of the said neonate.

8. In that view of the matter, I am not inclined to allow the application. Hence, same is rejected.

(RAJNISH R. VYAS, J.)

SSD