



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

29 BAIL APPLICATION NO. 337 OF 2026

Kishan @ Balu s/o Baburao Waghmare
@ Mukhede, Age 30 years, Occ. Labour
R/o. Pethwadaj, Tq. Kandhar, Dist.
Nanded.

... **Applicant**

VERSUS

The State of Maharashtra,
Through Kandhar Police Station,
Tq. Kandhar, Dist. Nanded.

... **Respondent.**

...
Advocate for Applicant : Mr. Govind G. Suryawanshi
A.P.P. for Respondent/State : Mr. G.O. Wttamwar

CORAM : **SHAILESH P. BRAHME, J.**

DATE : **01.04.2026**

PER COURT :

Heard both sides.

2. The applicant is seeking regular bail in connection with Crime No. 140/2025, registered with Kandhar Police Station, District Nanded, for the offences punishable under Sections 103(1), 351(2), 352 and 3(5) of Bharatiya Nyaya Sanhita, 2023.
3. The applicant is arrested on 11.05.2005. Charge sheet is filed on 05.08.2025 against four persons including the applicant.
4. It is reported to the police that informant's son Dhondiba was assaulted by accused on 09.05.2025. On further enquiry it revealed that a quarrel took place between Dhondiba and Shivaji Davkore. There was assault at about 1 p.m. on 09.05.2025. Thereafter again on the same day

deceased Dhondiba was assaulted at about 3 p.m.

5. Learned counsel for the applicant submits that there is no direct evidence to implicate the applicant. The CCTV footage is a weak piece of evidence, which cannot be relied at this stage. The statement of eye witness does not show any serious overt act. It is submitted that there was no intention to kill Dhondiba. Already co-accused are enlarged on bail.

6. The application is contested by the learned A.P.P. by adverting my attention to transcription of CCTV footage, statement of eye witness and postmortem notes. It is submitted that applicant has actively participated in the assault.

7. Hanumant is eye witness for the first incident occurred immediately after 1 p.m. on 09.05.2025. The applicant and other accused persons were not armed with any weapon. It was a sudden fight. The deceased was tried to be assaulted by stone. Hanumant was not present when assault on second occasion occurred after 3 p.m. on the same day. The transcription of CCTV footage also does not show use of any weapon in the second assault.

8. There is no material on record to show that there was any motive to pick up a quarrel against deceased. No *mens rea* can be inferred at this stage of the proceeding. No weapon has been used by any of the accused. It is not a premeditated crime.

9. I have gone through order passed by the Sessions Court in granting bail to co-accused Parmeshwar and common order dated 05.02.2026 passed by coordinate bench of this Court, granting bail to Dhondiba. Considering the various aspects of the matter including opinion of the medical officer, the co-accused were released on bail. On the ground of parity, the applicant is entitled to be enlarged on bail.

10. Bail application is allowed.

11. The applicant Kishan @ Balu s/o Baburao Waghmre @ Mukhede shall be released on bail in connection with Crime No. 140/2025, registered with Kandhar Police Station, District Nanded, for the offences punishable under Sections 103(1), 351(2), 352 and 3(5) of Bharatiya Nyaya Sanhita, 2023, on furnishing P.B. and S.B. of Rs.50,000/- (Rupees Fifty Thousand) with one solvent surety of the like amount, on the conditions that :

(a) The applicant shall not tamper with the prosecution witnesses.

(b) The applicant shall remain present on each date, unless exempted by the trial Court.

(iii) The applicant shall not enter the jurisdiction of village Pethwadaj, Taluka Kandhar, District Nanded except for the dates of attending the trial, till conclusion of the trial.

(iv) Needless to state that, the observations rendered herein are confined to the present application, and the trial Court shall not be influenced by the same.

12. Bail application is disposed of.

(SHAILESH P. BRAHME, J.)

mkd/-