



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

43 BAIL APPLICATION NO. 391 OF 2026

VISHWANATH GOPINATH KOLHE

VERSUS

THE STATE OF MAHARASHTRA

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Advocate for Applicant : Mr. Prashant Prabhakar Giri.

APP for Respondent/s-State : Mr. N. R. Dayma.

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CORAM : SHAILESH P. BRAHME, J.

DATE : 21.04.2026

PER COURT :-

1. Heard both sides.
2. The applicant is seeking bail in respect of offence bearing Crime No.139 of 2025, registered with Nanded (Rural) Police Station, District Nanded, for the offences punishable under Sections 103(1), 238, 126(2), 3(5) of Bharatiya Nyaya Sanhita and Section 4/25 of Indian Arms Act.
3. It is reported by Ganesh, brother of the deceased Datta that his brother had gone from home on 04.02.2025 at about 6.00 p.m. and did not return. There was a phone call between them at about 8.00 p.m. On the next date also he did not come back. On 07.02.2025 a missing report was lodged with the police. Thereafter, it was disclosed by witness Bhimrao Manjare

to him that in the night on 04.02.2025 applicant, deceased and the witness had a dinner. The quarrel took place and witness was asked to go away. It is further reported that thereafter in the Quarry Lake dead body of Datta was found with number of injuries with sharp weapon on his person. In pursuance of the offence registered, applicant was arrested on 09.02.2025. Charge-sheet is filed on 08.05.2025.

4. In this backdrop, learned counsel for the applicant submits that there is absolutely no incriminating material against his client. The prosecution story and the statement of Bhimrao is totally unreliable. The so called extra judicial confession made by the applicant is inadmissible in evidence. Even no panchnama was prepared. Therefore, the statement and the spot panchnama would not be incriminating. On the ground of suspicion, his client has been implicated in the offence. The statements of the life guards also would not support the prosecution theory. The transcript of CCTV footage is inconsistent not only with the prosecution theory but with the other witnesses. My attention is adverted to statement of Rushikesh, Proprietor of Godawari Hotel. The recovery of weapon is at the instance of accused No.2 Ganesh which cannot be said to be incriminating.

5. Per contra, learned APP submits that a missing report was lodged on 07.02.2025. The police started inquiry and collected information from various persons and involvement of applicant was found. The statement of the witnesses namely Bhimrao and spot panchnama would show complicity of the applicant. The statement of life guards are consistent with the prosecution theory. Even the statements of Rushikesh, Proprietor of Hotel corroborate the prosecution theory. There was strong motive for the applicant because his brother was murdered by the deceased and the deceased was acquitted.

6. First Information Report discloses that information of involvement of the accused is at the instance of witness Bhimrao. It is stated that he was along with applicant and the deceased till they had a dinner. He stated to have gone away, but while reaching his village he found confrontation between the applicant and the deceased. He is stated to have frightened and ran away to the village. The report shows that witness Bhimrao had last seen applicant in the company of the deceased.

7. I have gone through First Information Report and the statement of Bhimrao. He is consistent to the extent that he had been to the Hotel Godawari where he and Datta had food

and liquor. Applicant was seen in the same hotel taking liquor and food at a different place. It further reveals that he was asked to go away by the applicant and he went straight to his home and slept. The further narration of the First Information Report that witness Bhimrao had seen applicant and the deceased quarreling is absent in his statement. This creates doubt not only for the reliability of the witness but for the prosecution case.

8. I have gone through the statement of Proprietor of Godawari Hotel. It is disclosed that the applicant and the deceased had been to the Hotel and had food and liquor and there was dispute in the hotel itself. Both of them were pacified and thereafter they went away. This part of the statement is also not consistent with the prosecution theory. The statements collected can be tested to the touch stone of transcript of CCTV footage. The transcript does not show that there was any confrontation in the hotel.

9. I have also gone through the statements of life guards Shaikh Habib and Sayyed Salim. Their statements disclose that already the dead body was seen in the Quarry Lake and then they were called by the police to take out body. Considering the overall circumstances, I find that the spot

panchnama and recovery of weapons at the instance of accused No.2 Ganesh Sanjay Kolhe cannot be said to be incriminating. The prosecution will have to establish a link to connect the applicant with the crime which is part of trial.

10. The applicant is behind bar since 09.02.2025. No antecedents are reported against him. There is no point in detaining him in jail any further. I, therefore, pass following order :

ORDER

- (i) Bail Application is allowed.
- (ii) Applicant **VISHWANATH GOPINATH KOLHE** shall be released on bail in Crime No.139 of 2025, registered with Nanded (Rural) Police Station, District Nanded, for the offences punishable under Sections 103(1), 238, 126(2), 3(5) of Bharatiya Nyaya Sanhita and Section 4/25 of Indian Arms Act on furnishing P. R. bond of Rs.40,000/- (Rupees forty thousands only) with one solvent surety of like amount on the following conditions :
 - (a) The applicant or his relatives shall not tamper with the prosecution evidence and contact the prosecution witnesses.

- (b) The applicant shall stay away from village Bhayegaon, Taluka and District Nanded till conclusion of the trial.
 - (c) The applicant shall surrender his Aadhar Card and PAN Card to the Investigating Officer, if any.
 - (d) The applicant shall co-operate for expeditious disposal of the trial and attend the dates punctually.
- (iii) Bail application is disposed of accordingly.

(SHAILESH P. BRAHME, J.)

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