



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

70 BAIL APPLICATION NO. 455 OF 2026

Akash Prakash Aade,
Age 31 years, Occ. Labour,
R/o. Naldurg Tq. Tuljapur.
Dist. Dharashiv

... Applicant

VERSUS

The State of Maharashtra

... Respondents

...
Advocate for Applicant : Mr. Tushar C. Shinde
APP for Respondent : Mr. N. R. Dayma
...

CORAM : SHAILESH P BRAHME, J.

DATE : 30.03.2026

PER COURT :

Heard both sides.

2. The applicant is seeking regular bail in connection with Crime No. 398/2025 registered with Naldurg Police Station, Dist. Dharashiv for the offences punishable under Sections 316 (5), 317, 331(4), 305, 61(2), 3(5) of the Bharatiya Nyaya Sanhita, 2023.

3. First information report is lodged on 09.11.2025. The applicant is arrested on 15.12.2025. Charge-sheet is filed on 12.01.2026.

4. The applicant is accused no. 6 out of 10 accused. He is alleged to have received stolen articles following the theft committed by accused no.1 in collusion with other accused. Applicant-accused no. 1 Rahul is stated to be clerk in Disha Nagari Sahari Patsanstha, branch at Naldurg, who

facilitated the co-accused to commit theft of the mortgaged gold ornaments worth Rs. 2,63,63,272/- on 07.11.2025. The stolen articles are alleged to have been received by co-accused Amol who is the brother of the applicant.

5. Learned counsel for the applicant submits that applicant is not concerned with the theft or the co-accused. He is implicated due to suspicion as his brother is made accused. It is submitted that there is no incriminating material against the applicant. He did not receive any thing from any of the co-accused. It is submitted that witnesses Suresh, Sunil and Sanjay are in fact the perpetrators, but against them no steps are taken. It is submitted that he is entitled to be released on bail on the ground of parity.

6. The application is contested by the respondent on the ground that the applicant had knowledge that he was having stolen articles. He was acting in collusion with his brother Amol, who is actively involved in the offence. It is submitted that the statements recorded by the Police would connect the applicant to the offence.

7. First information report does not spell out any role attributable to the applicant. The statements of Suresh Dhanu Pawar, Sunil Fulchand Pawar and Sanjay Raju Rathod would show that they found the stolen articles concealed in the field of Shivaji Shankar Rathod, due to disclosure by co-accused Amol. The articles were distributed amongst them. No steps are taken by the investigating officer to implead them as accused. In such situation, counsel for the applicant relied upon judgment of the Apex Court in the matter of **P. Krishna Mohan Reddy Vs. State of Andhra Pradesh; 2025 DGLS (SC) 766**. The matter before the Apex Court was emanating from denial of anticipatory bail by the High Court. Following are the relevant extract :

“(53) (X) Before the court looks into the police statement of any person under Section 161 of the Cr.PC for the purpose of anticipatory or regular bail, the court must

first ascertain whether such person is actually a witness or an accused person, or likely to be an accused person in respect of the offence(s) alleged. This is because, there may be situations where a person while giving his statement under Section 161 of the Cr.P.C. may not be an accused, but later arrayed as one. In such a scenario the courts must be mindful of the fact that because the investigation is still ongoing, it is more likely for a person who was originally a witness to happen to be later arrayed as an accused person. If the court was to blindly place reliance on statement of such a person merely because he is not named in the first information report, without first seeing whether such person is likely to be arrayed as an accused or not, it would lead to an absurd situation where the statement of such a person may be relied upon up until such person is arrayed as an accused. We also caution the courts, where it emerges from the material on record, that such a person is likely to be arrayed as an accused, the courts should refrain from expressing any such opinion so that the investigation is not prejudiced in any manner.”

8. The statements of three persons referred above would not help the prosecution and they are not incriminating.
9. I find that no overt act is attributed to the applicant. He is impleaded on suspicion and Amol is his real brother. The co-accused has played active role. Interestingly, co-accused Amol is released on bail by the Sessions Court.
10. Co-accused Shivaji is granted protection of pre-arrest vide order dated 11.02.2026 by the Sessions Court. Laxmibai was also given interim protection from arrest. The role of Laxmibai is at par with the applicant. No

prima facie case is made out for offence under Section 317 of B.N.S., against the applicant. The applicant deserves to be released on bail.

11. Bail Application is allowed.

12. The applicant shall be released on bail in connection with Crime No. 398/2025 registered with Naldurg Police Station, Dist. Dharashiv for the offences punishable under Sections 316 (5), 317, 331(4), 305, 61(2), 3(5) of the Bharatiya Nyaya Sanhita, 2023, on following conditions:

(a) The applicant shall furnish PR. bond of Rs. 20,000/- (Rs. Twenty Thousand only) with one solvent surety of like amount.

(b) The applicant shall not tamper with prosecution evidence or contact with the prosecution witnesses in any manner.

(c) The applicant shall cooperate the investigating officer in case any information is solicited from him.

(d) The applicant shall furnish his mobile/cell number and address to the investigating officer.

13. Bail application is disposed of.

(SHAILESH P. BRAHME, J.)

mkd/-