



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

BAIL APPLICATION NO. 552 OF 2026

Abhishek S/o Ram Gaikwad
Age : 26 years,
Occupation : Labour
R/o : Beed, Tq. & Dist. Beed

... Applicant

VERSUS

The State of Maharashtra,
Through Shivajinagar Police Station
Tq. & Dist. Beed

... Respondent

...
Advocate for Applicant : Mr. Rajendraa Deshmukkh, Sr. Advocate along with
Ms. Shital S. Karle i/by Mr. P.P. Rajapurkar
A.P.P. for Respondent/State : Mrs. P.V. Diggikar

CORAM : SHAILESH P. BRAHME, J.

DATE : 15.04.2026

PER COURT :

Heard both sides.

2. The applicant is seeking regular bail in connection with Crime No.452 of 2025, registered with Shivajinagar Police Station, Dist. Beed for the offences punishable under Section 103 of Bharatiya Nyaya Sanhita, 2023.

3. The applicant is arrested on 03.09.2025 in pursuance of the report lodged by Sunil Kale, narrating the incident occurred on 02.09.2025. He is the father of deceased Vijay who had left home in the evening. Thereafter, informant was intimated by phone call that his son was found in an injured condition and shifted to hospital. After reaching hospital, one Vishal Yadav narrated that Vijay was with applicant and other friends and they had a quarrel. It culminated into scuffle. Applicant was threatened by deceased. In retaliation, deceased was assaulted by knife by applicant.

4. The chargesheet is filed on 03.11.2025. In this backdrop, learned Senior Counsel Mr. Rajendraa Deshmukkh submits that only single blow is attributable to the applicant. There is absence of *mens rea* or any motive. Deceased Vijay was the assailant who had threatened applicant. In a spur of moment and due to provocation, the applicant was required to inflict the blow. The overt act cannot be said to be culpable homicide amounting to murder but likely to fall within exception.

5. The submissions are contested by APP. It is submitted that there are eye witnesses, namely, Vishal, Akash, Onkar and Abhishek. The post-mortem corroborates the prosecution story and inasmuch as five injuries are noticed. The transcript of the CCTV footage, recovery of weapon and weapon query report would further incriminate the applicant.

6. Informant is not the eye witness. He received information from Vishal Yadav. Vishal, Akash, Onkar are the eye witnesses. The presence of the applicants at the relevant time is manifest. It reveals from the papers of the investigation and especially the statements of the eye witnesses that applicant, deceased and eye witnesses were friends.

7. The papers of the investigation do not show that there was any previous enmity. No motive or *mens rea* can be gathered so as to eliminate Vijay. The account of the eye witnesses shows that deceased was under influence of liquor but applicant had consumed only non alcoholic drink. The deceased himself had requested the applicant to drop at pasha chowk and accordingly, three of them were dropped by the applicant. During that period, deceased was continuously abusing and threatening applicant. Thereafter, also the quarrel continued between them. Vijay had taken away ignition keys of the motorcycle and tried to assault applicant by stone. Thereafter, applicant took out a knife from his vehicle and stabbed Vijay.

8. I find substance in the submission of learned Senior Counsel that Vijay was continuously quarreling with applicant and threatening him. He is said to be the first attacker. There is no reason for the witnesses to depose in favour of either of the sides. They appear to be natural witnesses. The possibility of grave and

sudden provocation cannot be ruled out. Post-mortem report shows five injuries but the fatal are below left side of chest. Other injuries are abrasions. The applicant has right of private defence available in the trial. The overt act is not likely to fall within the purview of 'culpable homicide amounting to murder'.

9. Applicant is behind bars since 03.09.2025. The investigation is also over. The trial is likely to consume considerable period. In such a situation, I find that applicant is entitled to be released on bail.

10. Hence, I pass the following order :

ORDER

I] The Bail Application is allowed.

II] The applicant shall be released on bail in connection with Crime No. 452 of 2025, registered with Shivajinagar Police Station, Dist. Beed for the offences punishable under Section 103 of Bharatiya Nyaya Sanhita, 2023, on following conditions:

(a) The applicant shall furnish P.R. bond of Rs.50,000/- (Rs. Fifty Thousand only) with one solvent surety of like amount.

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

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

(d) The applicant shall surrender Adhaar / PAN Cards, if any, to the Investigating Office.

(e) The applicant shall co-operate for expeditious disposal of the trial.

(SHAILESH P. BRAHME, J.)

arp/-