

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL APPLICATION NO.521 OF 2025

Santosh s/o Madan Thorve

..vs..

State of Maharashtra

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri R.M. Daga, Advocate for the applicant.
Shri V.A. Thakre, APP for the State.

CORAM: M.M. NERLIKAR, J.

DATE : 23.02.2026.

Heard.

2. By way of this application, the applicant is seeking bail in connection with Crime No.338 of 2023 registered with the Lonar Police station, District Buldhana for the offence punishable under Sections 302, 201 read with Section 34 of the Indian Penal Code.

3. The FIR came to be lodged by the father of the deceased alleging that as there was illicit relationship between the applicant and his daughter-in-law and since the deceased was an obstacle in their relations, the applicant murdered his son by strangulating him, when the deceased Rajaram went to the field of the applicant.

4. Learned Counsel for the applicant submits that the whole case is based on circumstantial evidence. Though in the FIR the motive is attributed to the applicant, however there is no evidence to show that the applicant is involved in the murder of the deceased. The deceased and the applicant were good friends and therefore it is not possible that the applicant committed

murder of his friend. It is submitted that the last scene theory was introduced by the prosecution agency almost after two months by recording the statement of one Shalikram Jaybhaye. Statement of Jagan Thorve, who is the owner of the vehicle, stating that the applicant called him to take the deceased to the hospital, has also been recorded after 4 days of the incident and therefore, both these statements cannot be relied upon. So far as the recovery of scarf is concerned, even that recovery cannot be believed for the reason that it was recovered from the open field (agricultural field) of the applicant. Cause of death is shown as "Asphyxia due to strangulation", that cannot be attributable to the present applicant. Another co-accused Jaidev, brother of the present applicant has already been released on bail by this Court and therefore, the present applicant also deserves to be enlarged on bail on the ground of parity, as the investigation is complete and charge-sheet is filed. The applicant is in jail since 29.10.2023 and there are 36 witnesses cited.

5. On the other hand, learned APP vehemently opposes the application by submitting that there are strong circumstances against the present applicant. Admittedly, there is strong motive to commit the murder of the deceased as he was an obstacle between the illicit relationship of the applicant and the wife of the deceased, which could be gathered from the FIR as well as statement of the family members of the deceased. Statement of Shalikram was recorded after two months that by itself is not sufficient to outrightly reject his statement. One important statement of Jagan Thorve, who is an independent witness has specifically stated

that at about 1.26 a.m. i.e. in the midnight the applicant called him to take the deceased to the hospital in his vehicle and when Jagan (vehicle owner) reached there, he found that the deceased was lying dead in the tin shed and blood was oozing from nose so also his legs were cold. Learned APP further points out that the fact of calling Jagan is supported by the CDR report, which is part and parcel of the charge-sheet. There was also recovery of scarf from the field of the applicant. There are as many as six injuries found on the deceased and most of the injuries are around the neck. He further submits that, so far as the case of co-accused Jaidev, who has been released on bail by this Court, is different as the allegation against him is only to the extent of disappearance of evidence. Considering all these important factors i.e. motive, recovery and most importantly the statement of witnesses, the applicant may not be enlarged on bail.

6. I have considered the rival submissions and perused the record. Admittedly, the FIR was registered by the father of the deceased alleging murder of his son by the applicant as there was illicit relationship between applicant and his daughter-in-law. On the date of incident, deceased left house at about 5.00 p.m. saying that he is going to the field of the applicant for cultivation. There are several statement of the family members, which demonstrates that the applicant was having illicit relations with the wife of the deceased and therefore, there is strong motive to commit the offence. Statement of Shalikram was recorded after two months from the date of incident. Even if it is ignored, the

statement of Jagan, who is independent witness, inspires confidence as it is stated that the present applicant has called him in the midnight asking him to come in order to take deceased to the hospital and when Jagan reached the spot of incident, he found the deceased lying dead in the tin shed bleeding from nose and his legs were found to be cold, on which it was informed to him by the present applicant that the deceased has consumed poison. That time he realized that the deceased is dead and the applicant might have killed him. This statement is supported by the CDR report also. There is also recovery of scarf, which was used for strangulation having blood stains. The dead body of the deceased was also found in the field of the present applicant. So far as the grant of bail to co-accused Jaidve is concerned, he is standing on the different footing as there are no sufficient circumstances against Jaidev in order to connect him with the alleged offence of murder. In such circumstances, it is not desirable to grant bail to the present applicant.

7. Hence, the application stands rejected.

(M.M. NERLIKAR, J.)