



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

CRIMINAL APPLICATION [B.A.] NO. 635 OF 2025

Nandkishor s/o Aatmaram Gawai

-- VERSUS --

The 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.

Ms. Garima Jain, Advocate a/w. Mr. S.V. Sirpurkar, Advocate
for the Applicant.

Ms. S.Z. Haider, A.P.P. for the Non-applicant/State.

Mr. V.D. Ruparelia, Advocate a/w B.K. Suchak, Advocate for
Assist to prosecution.

CORAM : M.M. NERLIKAR, J.

DATE : FEBRUARY 24, 2026.

Heard.

2. The present application is filed seeking regular bail in Crime No.257/2024 for the offence punishable under Sections 103(1) and 238 of the Bharatiya Nyaya Sanhita, 2023, (BNS), registered with Police Station Kingaon Raja, District Buldhana.

3. As per the First Information Report dated 08/11/2024, the informant, received the information on 07/11/2024 that a dead body was seen in the Khadakpurna river. A search was conducted on the same evening, but the body could not be located due to darkness. On 08/11/2024 at about 07:30 hours, an unidentified male dead body

aged about 25–30 years was found inside an iron drum near the riverbank of village Dusrabid. The body was in a decomposed condition and had a head injury above the right ear, suspected to have been caused by a weapon. It is alleged that an unknown person committed the murder and disposed of the body in the river to destroy the evidence. Based on this information, F.I.R. was lodged.

4. The learned counsel appearing for the applicant submits that the case is based on circumstantial evidence and there are no incriminating circumstances against the applicant. He submits that only incriminating circumstance is that he had loaded the iron drum in the tractor. The statement of mother was recorded, wherein she has disclosed that on 05/11/2024, the applicant loaded the said drum in the tractor. Apart from this, there is no other evidence against the applicant. According to the learned counsel the death is due to head injury. The body was found in a decomposed condition on 08/11/2024, and accordingly, F.I.R. was registered against unknown persons. The learned counsel for the applicant has invited my attention to opinion given by the doctor in respect of time of death, wherein it is stated that since death, it has been about 48 to 72 hours. Therefore, he submits that even the time is not matching in order to connect the

circumstance of loading the drum in the tractor. Had it been a case that the murder has been committed in the house where the applicant along with his mother, brother and sister-in-law were residing, at least some unusual thing would have been noticed by them, however, there is no witness to suggest all these facts. He has invited my attention to one house search panchnama dated 09/11/2024, wherein some blood stains are found on the wall of the house, therefore, he submits that the panchnama cannot be believed at this stage when there are so many persons residing in the house. He submits that the applicant is in jail since 10/11/2024. The deceased was his brother. There was no dispute between them, and therefore, prayed to release him on bail.

5. On the other hand, the learned A.P.P. and the counsel assisting prosecution vehemently opposes the application and submitted that the first circumstance is that the present applicant was seen by several witnesses while loading the drum in the tractor. They further submit that the post-mortem report shows that the death is homicidal, as it was caused by head injury. Even the time is matching which could be gathered from the opinion given by the doctor, wherein it is stated that time since death was about 48 to 72 hours. A missing report was filed on 05/11/2024 in respect of the deceased by the

mother and so if we go prior to time of conducting the post-mortem, then the time would match. He further submits that there is recovery of axe under Section 23 of the BSA on 10/11/2024. She further invited my attention to the statement of the mother, wherein she has stated that on 05/11/2024 she along with others have seen the applicant while loading an iron drum and the same drum was found in the riverbed at different place, wherein the dead body was in the said iron drum. The drum was identified by the mother, as well as other witnesses, and therefore, according to them, there are more than sufficient circumstances to connect the present applicant with the crime. Analysis of the GPS system was done in the present case in order to track the tractor and it was found that the tractor was passing through the bridge and the dead body was found near the riverbed. Therefore, considering incriminating circumstances against the applicant, it was prayed to reject the application.

6. Upon consideration of the rival submissions, admittedly, a missing report was filed on 05/11/2024, and the dead body of the deceased – Raghunath Gawai was found on 08/11/2024 accordingly, the F.I.R. was registered against unknown persons. Admittedly, the place where dead body was found, that is not the place of the murder. It

is the case of the prosecution that the deceased was killed in his house, and thereafter, the dead body was put in the drum and that drum was loaded in the tractor, and accordingly, it was thrown in the river. It is very interesting to note that in the house, the applicant along with his mother and sister-in-law and brother are residing. It is surprising to note that no one had noticed killing of the deceased – Raghunath Gawai by the present applicant, who is the real brother of deceased. On the other hand, the investigation paper shows certain blood stains found on the wall. Since missing, i.e., from 05/11/2024 till dead body was recovered, i.e., from 08/11/2024, it cannot be believed that no one has noticed those blood stains in the house, if, at all, the murder was committed in the house. No doubt, there are certain circumstances which goes against the applicant, however, the fact remains that, the applicant is in jail since 10/11/2024. Even it is noticed that no spot panchnama of the house was drawn, however, the blood stains were found in the house search panchnama. Now the investigation is complete and charge-sheet is filed. Considering this fact, I am inclined to grant bail to the present applicant on imposing stringent conditions. Hence, the following order:-

ORDER

(i) The Criminal Application is **allowed;**

(ii) The applicant/accused (Nandkishor s/o Aatmaram Gawai) be released on regular bail in connection with Crime No.257/2024 for the offence punishable under Sections 103(1) and 238 of the Bharatiya Nyaya Sanhita, 2023, (BNS), registered with Police Station Kingaon Raja, District Buldhana, on his furnishing a P.R. bond of Rs.25,000/- (Twenty Five Thousand Rupees) with one solvent surety in the like amount;

(iii) The accused shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case, as also shall not tamper with the evidence;

(iv) The applicant shall not enter into the vicinity of Nandana, Taq-Risod & District Washim;

(v) The accused shall provide his residential address and cell number to Police Station concerned and shall not change his place of residence without prior intimation to the Investigating Agency;

(vi) The accused shall attend each and every date of trial regularly. If he fails to attend the trial for two consecutive dates, or fails to comply with the aforesaid conditions, his default would entail the State to ask for cancellation of bail or even trial Court *suo moto* take cognizance of this and cancel the bail;

(vii) Pending Misc. Application(s), if any, also stand disposed of.

7. The observations of this Court are *prima facie* in nature. The Trial Court shall not be influenced by the observations of this Court and the observations are restricted to this bail application only.

[M.M. NERLIKAR, J]