



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

CRIMINAL APPLICATION [B.A.] NO. 1055 OF 2025

Mahesh Hanuman Kamble

-- 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.

Mr. S.V. Sirpurkar, Advocate, a/b Mr. Mohan Agrawal,
Advocate for the Applicant.

Ms. M.A. Barabde, A.P.P. for the Non-applicant/State.

CORAM : M.M. NERLIKAR, J.

DATE : JANUARY 07, 2026.

Heard the learned counsel for the
applicant and the learned A.P.P.

2. The present application is filed under
Section 483 of the Bharatiya Nagarik Suraksha
Sanhita, 2023, (BNSS) for grant of regular bail. The
case of the prosecution is that one dead body was
found on 30/04/2025 on the tank of railway hospital
at 04:30 p.m., and therefore, the unidentified dead
body was registered bearing No.27/2025 was
registered. During investigation, it was found that the
present applicant along with one juvenile has
committed murder of deceased – Raman Bappu
Namdass, accordingly, First Information Report was
registered on 05/05/2025. After investigation,

charge-sheet was filed on 04/07/2025. The accused was arrested on 07/05/2025.

3. The learned counsel appearing for the applicant submits that except the last seen theory, there is no other evidence against the applicant. Even if the last seen theory is considered, that the deceased was seen in the company of the accused on 28/04/2025. He has invited my attention to the post-mortem report dated 03/05/2025, wherein it is specifically stated that the death of the deceased was before 36 – 48 hours of conducting the post-mortem. Therefore, he submitted that there is no proximity in order to show that the applicant was in the company of the deceased – Raman.

4. On the other hand the learned A.P.P. vehemently opposes the bail application on the ground that there is sufficient evidence against the applicant. The accused - Mahesh has committed murder of deceased - Raman and the theory of last seen was witnessed by many persons, which is supported by statement of witnesses recorded under Section 161. These statements goes to show that on 28/04/2025 from 07:00 p.m. till 11:45 p.m., the deceased was in the company of the accused – Mahesh. She further submits that the recovery under Section 23(2) of the Bharatiya Sakshya Adhiniyam (BSA), 2023, was effected, and the accused has

produced a dagger which was used while committing the crime. She further submits that there are multiple injuries on the body of the deceased. The post-mortem report mentions that there are several stab injuries found on the body of the deceased. Lastly, she submits that considering the fact that there is ample evidence against the applicant, the applicant doesn't deserve to be enlarged on bail.

5. After hearing the learned counsel appearing for the applicant and the learned A.P.P, it appears to me that admittedly the dead body was found on 30/04/2025. The F.I.R. was registered on 05/05/2025 and the accused was arrested on 07/05/2025. After completion of investigation, charge-sheet was filed on 04/07/2025. The only incriminating circumstance, according to me, is that, the deceased was last seen in the company of the applicant, which can be seen from the statement of witnesses, wherein they have stated that the deceased was in the company of the accused from 07:00 p.m. till 11:45 p.m., and thereafter, no one has seen him alive. It could be gathered from the post-mortem report which was conducted on 03/05/2025, wherein time since death is shown as 36 to 48 hours before conducting the post-mortem. Therefore, it is very difficult to accept the theory of the prosecution. Further, there is no proximity between the last seen theory and the time of death. It is needless to

mention that the applicant is in custody since 07/05/2025 and further custody on the basis of such material would not be justifiable. Considering the material collected during investigation, I find that it is not desirable that the accused should be behind bars only on the basis of last seen theory. It is further to be noted that even recovery at the behest of applicant is also not helpful as there are no blood stains on the said weapon. Therefore, it is doubtful whether the said weapon was used in the commission of the present crime.

6. Needless to mention that, the observations of this Court are *prima facie* in nature and the Trial Court shall not be influenced by the observations of this Court and the observations are restricted to this bail application only. In this view of the matter, following order is passed:-

ORDER

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

(ii) The applicant be released on bail in connection with Crime No.252/2025 registered at Police Station, Shegaon, District Buldhana, for the offences punishable under Sections 103(1), 238 & 3(5) of the Bharatiya Nyaya Sanhita, 2023, on furnishing a PR. bond of Rs.25,000/- with one surety in the like amount;

(iii) The applicant shall not tamper with the evidence and threaten or influence the prosecution witnesses in any way;

(iv) The applicant shall co-operate in the trial and shall attend the trial regularly, and two defaults would entail the State to apply for cancellation of bail.

[M.M. NERLIKAR, J]

PIYUSH MAHAJAN