



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

CRIMINAL APPLICATION [BA] NO. 1184 OF 2025.

Jagdish Anil Devkar.

-VERSUS-

State of Maharashtra.

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders

Shri R.M. Daga, Advocate for the Applicant.
Shri V.A. Thakare, A.P.P. for the Non-applicant/State.

CORAM : M.M. NERLIKAR, J.

DATE : MARCH 24, 2026.

Heard.

2. The applicant came to be arrested in connection with Crime No.551/2024 registered with Manora Police Station, District Washim for the offence punishable under Sections 103[1] and 238 of the Bharatiya Nyaya Sanhita, 2023 (BNS). Charge sheet is filed in the matter and Section 3[5] of the BNS came to be added.

3. The first information report came to be lodged by one Haridas Pralhad Raut, Police Patil, that on 06.08.2024 he received an information that one dead body is floating in the

Adan river, and when he reached there he found that crowd had gathered on the spot. The body was taken out and there were injuries on the head and hand of the dead body. Hence, the report.

4. The learned Counsel appearing for the applicant submits that this is a case of double murder. Accused Pratik is grandson of deceased Pralhad and Nirmala, who are husband and wife, were killed with the help of other accused persons. The role of the present applicant is that he along with other three accused persons has committed murder of Pralhad and Nirmala. So far as the present applicant is concerned, it is submitted that he has been falsely implicated in the present crime. The only circumstance which is shown against him is recovery of bangles. It is contended that said recovery cannot be believed for the simple reason that there is no separate test identification memorandum panchnama of the recovered jewellery. Even if it is believed, that there is recovery, it is doubtful for the reason that statement of one Jyoti, who is daughter of the deceased Pralhad and Nirmala, has been recorded on 10.08.2024, whereas the memorandum

panchnama of seizure is also dated 10.08.2024 at about 19.00 to 19.30 hours, which mentions about bangles as well as, articles recovered from the accused persons. There is also discrepancy in the number of bangles in the memorandum panchnama, wherein it was shown as six bangles, whereas in the certificate issued by Sahane Jewelers the number is shown as four bangles. My attention is invited to the memorandum panchnama of Pratik dated 11.08.2024 which was executed between 13.00 to 14.00 hours, however, after perusal of the statement of Jyoti, dated 10.08.2024, even the articles which are recovered from Pratik on 11.08.2024 are mentioned in her statement of 10.08.2024, therefore, according to the learned Counsel for the applicant, entire story of the prosecution is concocted one. One important witness Sheikh Rihaan, who has seen the dead body being thrown from the bridge has not identified the applicant, and merely on the basis of CDR, the applicant cannot be roped in the crime. It is submitted that now the investigation is complete, charge sheet is filed and the applicant is behind bars since 08.08.2024, and the trial has not been commenced yet, therefore, the applicant be released on

bail. The learned Counsel has relied on the judgment in case of **Thammaraya and another .vrs. The State of Karnataka – Criminal Appeal No.649/2013 decided on 22.01.2025,**

5. On the other hand the learned A.P.P. has vehemently opposed the application by submitting that murder of two senior citizens by their grandson along with other co-accused (including present applicant) has been committed. So far as the case of present applicant is concerned, there is recovery of bangles at his behest under Section 23[2] of the Bharatiya Saksha Adhiniyam. It is submitted that though the applicant was not identified in the test identification parade by the chowkidar Sheikh Rihan, however, the call detail report of applicant shows that he was present on the spot on 04.08.2024, and was also in touch with other accused till 08.08.2024. The conduct of the applicant having committed murder could be gathered from the statement of his brother Shankar, and therefore, though there may be some minor discrepancies, but, they do not go to the root of the matter. The fact also remains that Pratik, grand son of deceased Pralhad and Nirmala, along with other accused

persons including the present applicant has committed two murders, and therefore, he does not deserve to be released on bail.

6. I have considered the rival submissions canvassed by the learned counsel for the parties. Admittedly it appears that the crime was committed on 04.08.2024, the first information report came to be registered on 06.08.2024, all the accused persons were arrested on 08.08.2024. Initially one dead body was found in river. When grandson of deceased Pralhad and Nirmala, Pratik was arrested upon his disclosure, the second dead body was recovered. It further appears from the recovery panchnama, drawn on 10.08.2024 wherein it is shown that 6 bangles of yellow colour came to be recovered at the behest of the applicant. Even other articles, including gold ornaments are recovered at the behest of the applicant. It is to be noted that the certificate issued by the Sahane Jewelers refers to only 4 bangles and not 6 bangles, which are referred in the panchnama. It is to be further seen that another memorandum panchnama under Section 23[2] of the Bharatiya Saksha Adhinyam was drawn in respect of Pratik on

11.08.2024 at about 13.00 to 14.00 hours, wherein certain articles are shown to be recovered at his behest. It is very important to note that in the statement of Jyoti recorded on 10.08.2024, the recovery of jewellery made on 11.08.2024 was also mentioned. In such circumstances, whether the recovery of articles are actually at the behest of the accused persons or not, is the question. Thus, from the above facts, the recovery itself is doubtful. This is nothing but, a lethargic and casual approach on the part of the investigating officer.

7. There was no test identification parade conducted in respect of the recovered articles. Therefore, the learned Counsel for the applicant has rightly placed reliance on the judgment in the case of *Thammaraya and another .vrs. The State of Karnataka* (supra), the Supreme Court has specifically dealt with the issue and in paragraph no.22 has held as under :

“22. Furthermore, another very crucial missing link in the prosecution case that it failed to conduct the Test Identification Parade (TIP) of the recovered articles, thereby, bringing the identification of the material objects in Court for the first time, is under a cloud of doubt. It is a case of sheer negligence

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and dereliction of duty on the part of the Investigating Agency and the Public Prosecutor for not conducting Test Identification Parade (TIP). This Court shed light on the purpose of Test Identification Parade(TIP) in Ramkishan Mithanlal Sharma v. State of Bombay, wherein it held as follows:

“20. ... These parades are held by the police in the course of their investigation for the purpose of enabling witnesses to identify the properties which are the subject-matter of the offence or to identify the persons who are concerned in the offence. ...the identifying witnesses are explained the purpose of holding these parades and are asked to identify the properties which are the subject-matter of the offence or the persons who are concerned in the offence.” (emphasis supplied).”

Further in paragraph no.24, it is observed as under:

“24. Therefore, this material omission on part of the Investigating Officer(PW-27) in not conducting a Test Identification Parade (TIP) of the recovered articles, more particularly when the case of prosecution is based solely upon recoveries of these articles, has created holes in the fabric of the prosecution story, which are impossible to mend.”

8. The Supreme Court was dealing with an appeal in

the aforesaid case, however, the ratio is important. Therefore, in the present matter as observed above, the recoveries made by the investigating officer itself creates a doubt and no test identification parade was conducted in respect of the recovered articles. Merely on the basis of CDR, prima facie the applicant cannot be linked with the crime. Thus, considering the above facts and circumstances of the case, in my opinion this is a fit case for grant of bail. Hence, the following order.

ORDER

- (i) Criminal Application is allowed and disposed of.
- (ii) The applicant /accused Jagdish Anil Devkar be released on regular bail in connection with Crime No.551/2024 registered with Manora Police Station, District Washim for the offence punishable under Sections 103[1], 238 and 3[5] of the Bharatiya Nyaya Sanhita, 2023 (BNS) on his furnishing P.R. Bond of Rs.50,000/- with two sureties in the like amount.
- (iii) The accused shall not enter within the territorial jurisdiction where the informant is residing, till the completion of the trial.
- (iv) 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.

- (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) Till commencement of the trial, the applicant/accused to attend the concerned police station on 1st and 3rd Saturday of each month, and on commencement of the trial, shall attend each and every date of trial regularly. If he fails to attend the trial for one single date, or fails to comply with the aforesaid conditions, his default would entail the State to ask for cancellation of bail.
- (vii) The above observations are prima facie in nature, and restricted for the purpose of deciding this application. The Trial Court shall not get influenced by said observations, during the course of trial.
- (viii) Misc. Applications, if any, are also disposed of.

JUDGE