



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

CRIMINAL APPLICATION [BA] NO. 1189 OF 2025.

Mohit Dilip Marathe.

-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.P. Joshi, Advocate for the Applicant.

Ms P.C. Bawankule, A.P.P. for the Non-applicant.

Shri A.A. Korpenwar, Advocate h/f. Shri R.K.Tiwari, Advocate
Assisting Prosecution.

CORAM : M.M. NERLIKAR, J.

DATE : JANUARY 27, 2026.

Heard the learned Counsel for the parties.

2. The informant has filed Criminal Application (APPP)

No.2628/2025 seeking permission to assist the prosecution.

3. For the reasons stated therein, the same is allowed and
disposed of.

4. The applicant in the present matter came to be arrested
in connection with Crime No.120/2024 registered with Ram
Nagar Police Station, Gondia for the offence punishable under
Section 302 read with Section 34 of the Indian Penal Code,

Sections 3 and 25 of Arms Act and Sections 37[1] and 135 of the Maharashtra Police Act. Charge sheet in the matter is filed and Sections 143, 144, 147, 148, 149 and 120[B] of the Indian Penal Code are added.

5. The first information report is lodged by one Rahul Tiwari, brother of the deceased Rohit @ Golu. It is his allegations that the accused persons are known to him since long. In the year 2012, brother of accused Banti Dawne was murdered, and since then he was having a grudge against Rohit. On 22.04.2024 the informant was informed by one Ajay Patle that Banti has shot at his brother and he is lying in front of Shalimar Hotel. On reaching there, he learnt that his brother was taken to the hospital for treatment, and when the informant reached hospital, he saw that there were serious injuries on the head of his brother Rohit. On enquiry, Ajay Patle told him that he had seen Rohit driving a moped. One motor cycle was driven by Hero Dawne and Banti Dawne was sitting behind him. Similarly Mohit Marathe also came there with his associate on motor cycle. Banti shot at Rohit on his back side and Mohit asked Banti to hurry up, and they left the spot. Subsequently, Rohit succumbed to his injuries. Hence, the

report came to be filed on 23.04.2024..

6. The learned Counsel appearing for the applicant submits that so far as the role played by the present applicant is concerned, the same is very limited, since he was driving motorcycle and has asked the main accused, who has fired on Rohit, as “Banti jaldi chal”. He further submits that considering his limited role, he may be granted bail. Even the prosecution story is that the investigating officer has named one Satish Sen, who has fired on the deceased. The learned Counsel invited my attention to the orders passed by the trial Court in cases of Pankaj Agrawal and Chotu @ Suyesh Choubey wherein they have been granted bail by the trial Court. Considering the nature of allegations, it is not clear that who has shot on the deceased, whether it is Banti @ Rajendra Danve or it is Satish Sen, and therefore, considering this weak piece of evidence, he is entitled for bail.

He further submits that the prosecution has failed to bring on record the circumstances on the point of criminal conspiracy. There is no CDR, so far as the present applicant is concerned to connect him that he was present on the spot. There

is also no evidence in respect of tower location, and therefore, considering this fact also the applicant be released on bail. The learned Counsel for the applicant further submit that so far as the recovery of pistols and 19 live cartridges are concerned, they were purchased some two years prior to the incident and it has nothing to do with the present crime, and there is only one injury of fire arm on the body of the deceased.

He also presses the ground of delay in trial by relying on the judgment of Hon'ble Supreme Court in case of **Surendra .vrs. State of Maharashtra (SLP Criminal No.5139/2025 decided on 15.07.2025)**. However, since the applicant has not pressed this ground of delay before the trial Court, I am not inclined to consider said ground.

7. On the other hand, the learned A.P.P. and the learned Counsel assisting the prosecution have opposed the application. The learned A.P.P. has drawn my attention to the fact that first information was immediately registered and statement of two eye witnesses came to be recorded under Sections 161 and 164 of the Code of Criminal Procedure. She submits that in the statement of eye witnesses, a clear role is attributed to the applicant, as he is

shown to have accompanied the main assailant- Rajendra @ Banti. Even two pistols and 19 live cartridges are recovered at the instance of the present applicant under Section 27 of the Indian Evidence Act, and it was the applicant who had sent the photograph of the deceased to Satish Sen. She also submits that there is one more offence which was registered against the present applicant under Section 302 of the Indian Penal Code, however, he was acquitted of that offence. Lastly she submits that there is material against the present applicant, and therefore, considering the gravity of the offence, the applicant is not entitled for bail, and his application is liable to be rejected.

8. The learned Counsel assisting prosecution has invited my attention to the common order dt. 24.04.2025 passed in Criminal Application (BA) Nos.234 & 235 of 2025, wherein this Court has rejected bail applications of Rajendra @ Banti and Hero Shankar Davne.

9. Upon consideration of rival submissions and after going through the relevant material available on record, it appears that the first information was registered by the brother of the deceased. He was informed by Ajay Patle about the incident. I

have perused statement of Ajay Patle and Anmol Sawarkar, wherein both the eye witnesses have specifically stated about the role attributed to the present applicant, that he was on the motorcycle with another accused and the assailant was on another motorcycle. They came near the deceased and Rajendra has shot the deceased with fire arm. Accordingly deceased Rohit succumbed to the injuries and was declared dead. At the spot of incident, the present applicant had uttered the words “Banti jaldi chal” and then they fled away on the motorcycle. Considering the fact that the applicant was present along with the main assailant, at this stage I am not inclined to grant him bail. Even this Court while considering the bail applications filed by other co-accused i.e. Rajendra and Hero, has in paragraph no.7 observed as under :

“7. Having heard learned counsel for the respective parties and gone through the investigation papers, it reveals that there was previous enmity between the informant and the present applicants as the informant is the accused in a murder trial of the brother of the applicants. As per recital of the FIR, on the day of the incident, the informant has witnessed his brother proceeding on his motorcycle towards Kudwa Naka. At about 9:15 pm, the informant was informed by Ajay and Anmol that the deceased was shot dead as bullet was fired by applicant

Banti and Banti was accompanied by applicant Hero Dawne and co-accused Mohit and his associates. The statements of these eyewitnesses are recorded by the police as well as the Magistrate under Section 164 of the CrPC wherein also they specifically stated that on 22.4.2024 they had been to Gayatri Mandir and witnessed the deceased coming on the motorcycle and followed by two motorcycles and on one motorcycle they witnessed applicant Hero Dawne riding and applicant Banti was pillion rider and on another motorcycle Mohit had followed the deceased. Applicant Banti has fired the bullet on the back of the deceased. After firing the bullet, Mohit asked them to flee away from the spot immediately and they all four fled away from the spot of the incident. As the bullet hit on the back of the deceased, the deceased dashed against one pole and fell on the ground. During investigation, the bullet as well as the pistols was recovered at the instance of co-accused Mohit Marathe. Statement of Ajay also shows that the police came along with Mohit in his shop and at the instance of Mohit, the said pistols were recovered.”

Even the role which is attributed to the applicant is somewhat similar to Hero Dawne. Hero Dawne was also riding the motorcycle, and even in this case the applicant was driving the motorcycle. Admittedly considering the statements of two eye witnesses and further the fact that there is recovery

of 2 pistols and 19 live cartridges at the behest of the applicant, this is not the case where the applicant can be released on bail. Criminal Application therefore, stands rejected.

JUDGE