



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

CRIMINAL APPLICATION [B.A.] NO. 1226 OF 2025

Akash @ Awali S/o. Vasanta Chavhan

-- VERSUS --

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 for the Applicant.

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

CORAM : M.M. NERLIKAR, J.

DATE : FEBRUARY 09, 2026.

Heard.

2. The present application is filed seeking regular bail in Crime No.602/2024 for the offence punishable under Sections 103(1), 140(1), 61(2), 189(2), 189(4), 190 read with Section 3(5) of the Bharatiya Nyaya Sanhita, 2023, (BNS), registered with Police Station Badnera, District Amravati.

3. The informant, Gaurav Vilasrao Patil, stated that on 06/10/2024 at about 5:00 p.m., his cousin Premraj alias Monty Gole was assaulted with a sharp weapon and murdered by Samarth Bilbile, Sham Khanjode, and others near Jaystambh Chowk, Amravati. Ajay Vijay Wankhade, who was present at the spot, escaped and later lodged the report about the said crime. On 07/10/2024, at about 3:00 p.m.,

during the funeral of Premraj at the Hindu Crematorium near Kalimata Mandir, Amravati, Ajay Wankhade was seen being taken away by Akash Chauhan, Ganesh alias Bunty Shinde, and one associate. Thereafter, Ajay Wankhade went missing and later on the same night, the dead body of Ajay Wankhade was found near a drainage area at Krantinagar, Amravati. It is alleged that the said accused persons murdered Ajay Wankhade on suspicion that he abandoned Premraj at the time of the earlier incident due to which Premraj died. Based on this information, F.I.R. was registered.

4. The learned counsel appearing for the applicant submits that, absolutely there is no evidence against the present applicant, the material which was placed in the charge-sheet goes to show that the present applicant was not having any motive to commit the crime. He further submits that even the recovery which was made at the behest of present applicant under Section 27 of the Indian Evidence Act, 1872 / Section 23 of the Bharatiya Sakshya Adhiniyam, 2023, is doubtful, for the reason, that the knife was recovered at a distance of about 10 to 15 meters from the place where the dead body was found in the open field. He further submits that, even as per new Act, the procedure under Section 105 of the BNSS has not been followed, as the E-Sakshya

app was shut down, and therefore, recovery which was made under Section 23 BSA is vitiated. Further, it is to be noted that the recovery was made seven days after the body was found, therefore, the recovery cannot be believed, as the knife was found at a distance of about 10 to 15 meters from the place where the dead body was found. He further submits that there is every possibility that the other group has eliminated the deceased, as the deceased was an eyewitness to the murder of Monty Gole, and therefore, according to him, there is every possibility that the present applicant is falsely implicated by the Investigating Agency. There is last seen theory, wherein the deceased was shown in the company of the present applicant on the day of the funeral of Monty. Except this, there is no evidence on record. The learned counsel for the applicant has relied on the following judgments:-

(1) Krishan -VS- State of Haryana, 2024 INSC 60;

(2) Arun Dharma Chavhan -VS- State of Maharashtra, 2001 SCC OnLine Bom 591;

(3) Shanti Bhandari -VS- State of Uttarakhand, 2025 SCC OnLine UTT 1610;

5. On the other hand, the learned A.P.P. vehemently opposes the application and submits that there is evidence against the present applicant in the

nature of CCTV footage as well as there are witnesses to the last seen theory. She invited my attention to the transcript of CCTV footage as well as statement of Satish Janardhan Shejav and other witnesses. She further submits that there is recovery of weapon at the behest of present applicant. Even the alleged unnatural conduct has to be gathered from the entire evidence, wherein the wife of the applicant, in her statement has stated that the present applicant, on the same day came to the house, parked the bike, and immediately left in a hurried manner. There is also evidence in the nature of unnatural conduct that before completion of the funeral of Monty, the present applicant has taken the deceased from the funeral place. The cause of death was due to complications following chest injuries. She further submits that there are six offences registered against the present applicant. However, he has not disclosed about same in his application, only a vague statement is made at page No.11 in ground No.D stating that the applicant has criminal antecedents, however, there are no details to that effect, and therefore, considering the entire evidence, the learned A.P.P. submits that there is more than sufficient evidence against the present applicant, and therefore, he may not be enlarged on bail.

6. I have heard the learned counsel for the applicant as well as the learned A.P.P., admittedly, the F.I.R. was registered by one Gaurav Vilasrao Patil, wherein the name of the present applicant appears, wherein it is specifically stated by the informant that when the funeral was going on, at the relevant time, the applicant has taken away the deceased Ajay Wankhede with him. Perusal of the recovery panchanama goes to show that the knife was hidden in the bushes of turmeric which is adjacent to banana trees. Therefore, as was contended by the learned counsel appearing for the applicant that it is recovered from the open place cannot be accepted because it was hidden under the bushes of turmeric. It is to be further noted that so far as Section 105 of BNSS which speaks about recording of search and seizure through audio, video, electronic means is concerned, the learned counsel appearing for the applicant for that purpose relies on the Acts like Bharatiya Nagarik Suraksha Sanhtia, the State of Maharashtra e-Sakshya Management Rules, 2025, and further Standard Operating Procedure issued by Ministry of Home Affairs for recording of Audio/video Evidence under BNSS. No doubt, Section 105 of the BNSS lays down that the search and seizure is to be recorded either through audio or video electronic means. However, at present, this argument cannot be accepted for the reason that

unless and until, the trial is commenced and the prosecution is given an opportunity to lead the evidence, at this preliminary stage, the said argument cannot be considered. So far as the judgments which are relied on by the applicant is concerned, even those judgments are delivered in appeals. So far as bail applications are concerned, the parameters laid down are that *prima facie* case has to be seen. Further, whether the accused is likely to flee away and possibility of committing another offence. So far as the allegations against the present applicant is concerned, admittedly, there is last seen circumstance in the nature of CCTV footage as well as there are witnesses to the last seen theory, wherein the deceased was seen in the company of the present applicant. There is also another important circumstance, the recovery of weapon, viz. (knife) having blood stains. Yet another circumstance is the unnatural conduct of the present applicant, as stated by the wife of the applicant specifically in her statement. Even there are other witnesses who noticed the unnatural conduct of the present applicant that before completion of funeral the applicant has taken the deceased on the motorcycle. Most importantly the statement of Satish Shejav demonstrates the motive of the present applicant to commit the offence. On 04/10/2024, the present applicant was discussing with his friends that if the

deceased did not abandon Monty Gole he would have not been murdered. But the deceased ran away from the spot. This was over heard by Satish Shejav who was also sitting with the present applicant and his friends and drinking alcohol.

7. It is further to be noted that the learned A.P.P. has invited my attention to the chart of the offences which are registered against the applicant wherein as many as six offences are shown. There are three serious offences which are registered against the applicant under Sections 363, 376 and the Protection of Children from Sexual Offences Act, 2012, as well as the provisions of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989. Further, there is another offence of the year 2023 under Sections 307, 448, 504 read with Section 34 of IPC. Further, there is another offence in the year 2024 registered under Sections 376, 366, 363, 354 of IPC. It appears that the applicant was released on bail in all these offences and out of these six offences, one offence is compounded. However, the fact remains that the present applicant is having long history of committing serious offence. Further considering the fact that, there are clinching and incriminating circumstance against the present applicant, I am not inclined to grant the bail. In this view of the matter, the

application is **rejected**. Pending application(s), if any, also stand disposed of.

[M.M. NERLIKAR, J]

PIYUSH MAHAJAN