

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL APPLICATION (BA) NO.1386/2025

(Dewanand @ Dev Gajanan Gawai Vs. 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. Mohd. Amim Mohd. Salim, Advocate for applicant.
 Mr. Mayuri Deshmukh, APP for non-applicant/State.

CORAM: M. M. NERLIKAR, J.

DATED : 30/01/2026.

Heard.

2. By the present application, the applicant is seeking bail in connection with Crime No.232/2025 registered with Police Station Anjangaon Surji, Dist. Amravati for the offence punishable under Sections 109(1), 115(2), 118(2), 103(1), 189(2), 189(4), 190, 191(2), 191(3) of the Bhartiya Nyaya Sanhita, 2023.

3. The first information report was lodged by the mother of the deceased alleging that there was a dispute regarding right to way between the informant's family with the present applicant and his brother. On 16.04.2025, around 08.30 p.m, the informant's son went to his friend's house and he came back shouting that he has been stabbed. When inquired about who has stabbed him, he

said that Bharat Gawai and Dev Gawai have stabbed him on abdomen and hands. Based on the aforesaid allegations, FIR was came to be registered.

4. The learned counsel for the applicant submits that there is no overt act on behalf of the applicant so far as the alleged incident of murder is concerned. FIR discloses that initially the deceased Kapil has disclosed that Bharat Kailas Gawai and Deva Gajanan Gawai have assaulted him with the help of knife on abdomen and hands. Accordingly, the FIR was registered by the mother of the deceased Kapil.

5. During investigation, several statements are recorded, wherein it appears that the present applicant was accompanied with Bharat and other persons. The learned counsel for applicant submits that statement of eye witnesses show that he has not played active role in the entire episode. However, he was present along with the main accused Bharat Gawai. He has invited my attention to the statement of witnesses wherein the alleged assault with the help of knife was attributed to Bharat and not to the present applicant. He further submits that the other accused who are similarly placed, has been granted bail by

the Sessions Court. Therefore, he submits that while deciding his bail application, the Court has considered only the allegations in the FIR and not considered the entire material in its true perspective wherein it was disclosed by several witnesses that though the present applicant was accompanying Bharat, however there is no overt act attributed to the present applicant. The main culprit is Bharat who has inflicted blow on the person of the deceased which has resulted into his death, therefore, he prayed for bail. He further submits that the applicant is in Jail since from 18.04.2025 and there are no criminal antecedents against the applicant and the applicant is of just 21 years of age therefore prayed for bail.

6. On the other hand, the learned APP vehemently opposes the application and submits that in the FIR the name of the present applicant was disclosed by the informant wherein it is specifically stated that deceased has disclosed that Bharat Kailas Gawai, Devanand alias Deva Gajanan Gawai have assaulted the deceased with the help of a knife. He further invited my attention to the postmortem report wherein three puncture injuries are noticed. Out of this three puncture injuries, one injury is

on the chest and two injuries are on the abdomen (lumbar region). There are eye witnesses to the incident who has unequivocally disclosed that the present applicant was part and parcel of the incident. He has not only played active role but also supported Bharat Gawai who is the main culprit. He further submits that they all ran behind the deceased and Bharat has inflicted blow on the person of deceased. Accordingly, he submits that considering the gravity of the offense, the present of applicant does not deserve bail.

7. I have heard the learned counsel for the applicant and the learned APP. It appears that the mother of the deceased has lodged FIR on the basis of disclosure by the deceased that Bharat and the present applicant have inflicted blows with the help of knife on the abdomen and hands. It further appears from the other statements who have witnessed the incident that Bharat has inflicted blow on the deceased and the present applicant was present along with others during relevant time. It further appears that there are seven injuries on the person of the deceased. Out of seven, three injury are on vital parts of the body. The cause of death is complication following multiple

injury. After perusal of various statements recorded by the Investigating Officer which are part and parcel of the charge sheet, it shows that admittedly the applicant was present along with others with the main culprit Bharat Gawai, however, there is no overt act attributed to the present applicant. It is necessary to mention at the juncture that, the Additional Sessions Judge has already granted bail to the other accused persons who are similarly situated. Therefore, considering the fact that the applicant is in Jail from 18.04.2025, so also investigation is over and the charge sheet is filed, I am inclined to grant the bail, hence the following order:-

ORDER

- (i) Criminal application is allowed and disposed of.
- (ii) The applicant/accused Devanand @ Dev Gajanan Gawai be released on bail in connection with Crime No.232/2025 registered with Police Station Anjangaon Surji, Dist. Amravati for the offence punishable under Sections 109(1), 115(2), 118(2), 103(1), 189(2), 189(4), 190, 191(2), 191(3) of the Bhartiya Nyaya Sanhita, 2023 on his furnishing P.R. Bond of Rs. 25,000/- with one 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 accused shall provide his residential address and cell number to concerned Police Station and shall not change his place of residence without prior intimation to the concerned Investigating Officer.

(v) The applicant/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 entails the State to ask for cancellation of bail.

(M. M. NERLIKAR, J.)