



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

CRIMINAL APPLICATION [BA] NO. 77 OF 2026.

Junaid Shaikha Rafiq Shekha.

-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 A.S. Mardikar, Senior Advocate with Shri R.A. Mardikar,
Advocate for the Applicant.
Ms S. Haider, A.P.P for the Non-applicant/State.

CORAM : M.M. NERLIKAR, J.

DATE : MARCH 05, 2026.

Heard.

2. The applicant came to be arrested on 09.08.2025 in connection with Crime No.280/2025 registered with Vasant Nagar Police Station, Yavatmal for the offence punishable under Sections 109[1], 351[2], 351[3], 296, 3[5] of the Bhartiya Nyaya Sanhita (BNS), Sections 3 and 25 of the Arms Act and Section 135 of the Maharashtra Police Act. Charge sheet came to be filed and Sections 61[2], 49, 111[2] [b] of BNS and Section 27 of the Arms Act came to be added.

3. The first information came to be lodged by one Hasan Khan Aziz Khan, alleging that on 08.08.2025 he received a phone call from his cousin brother that there was a quarrel between him and Sheikh Sahil Sheikh Vazir, and he has threatened to shoot him. Accordingly the informant along with his brothers went to the house of Sahil, however, as he was not present, all of them returned to their home. After some time Sheikh Sahil Sheikh Vazir along with his associates came to the house of the informant and called him out. Father of informant Aziz Khan came out and then the informant heard shouts from outside, therefore, he along with his wife and mother came out of the house and saw Aziz Khan whose clothes were filled with blood. All the accused persons were shouting and shot bullets on them. They saw Sheikh Sahil holding the pistol in his hands. Hence, the aforesaid first information report.

4. The learned Senior Counsel submits that the main accused Sheikh Sahil Sheikh Vazir along with other three, including the present applicant, went to the house of the injured Aziz Khan, as at earlier point of time there was some quarrel on account of football match, and therefore, all the four accused persons went to the house of the injured Aziz, where Sheikh Sahil took out pistol and fired three rounds towards the complainant, in which his father Aziz Khan got injured by one bullet. It is submitted that so far as the role of the

present applicant is concerned, he was accompanying the main accused, however, there is no role attributed to him, except for his presence on the spot at the time of the incident. The learned Senior Counsel further submits that though Section 111 of the BNS is invoked against all the accused persons, however, the said Section would not be applicable in case of the applicant, in view of the fact that the present applicant is not involved in the crime which was said to be an 'organized crime'. There is only one crime which was registered against the applicant in the year 2023 for the offence punishable under Section 379, and therefore, according to the prosecution the said crime is sufficient to invoke Section 111 of the BNS. The learned Senior Counsel further invited my attention to the bail order of the applicant, by which he was released in Crime No.31/2023 for the offence punishable under Section 379 of the Indian Penal Code, wherein it is observed by the trial Court that the applicant was arrested only on suspicion and there is no direct evidence to connect him with the said crime. Therefore, it is submitted that considering the limited role played by the applicant, he be released on bail.

5. On the other hand, the learned A.P.P. vehemently opposed the application by stating that the applicant is a history sheeter. Earlier two times offence under Sections 307 of the Indian

Penal Code was registered against him. She further submits that apart from Section 307, there are other offences registered against the applicant. Replying to this submission, the learned Senior Counsel appearing for the applicant submits that the applicant came to be acquitted in one of the offence under Section 307 of IPC.

The learned A.P.P. further pointed out the statement of complainant Hasan Khan, wherein role of Sheikh Sahil has been attributed, where the applicant is shown present along with main accused Sheikh Sahil. She further submits that considering the gravity of the offence and the fact that three rounds have been fired, coupled with the fact that the applicant was accompanying the main accused with an intention to kill the complainant Hasan, and therefore, according to her there is strong prima facie case against the applicant and he may not be released on bail.

5. I have considered the rival submission canvassed by the learned Counsel for the parties and gone through the material placed on record. Perusal of the first information report reveals that while playing football, there was quarrel with the main accused Sheikh Sahil and Hasan Khan. It further appears that initially the informant went to the house of Sheikh Sahil, however, he was not found at home and accordingly he returned. Thereafter Sheikh Sahil along with three others, including the present applicant, went to the house of Hasan

Khan, called him out and Sheikh Sahil fired three rounds, out of which one hit Aziz Khan under the arms and he was injured. Admittedly it appears from the first information report and statements recorded, that it is Sheikh Sahil who has fired the bullets on Aziz Khan, however, the applicant was only accompanying him. From the first information report and statements, no overt act on the part of the applicant is demonstrated. It also appears that there are criminal antecedents against the applicant, however, he was released on bail in all the crimes and in one he came to be acquitted also. It is further to be noted that those crimes were registered in the year 2017 and 2020 i.e. long back. Considering this fact and the fact that the applicant is behind bars since 09.08.2025, and the investigation is complete, charge sheet is filed, I am inclined to grant bail to the applicant. Hence, the following order.

ORDER

- (i) Criminal Application is allowed and disposed of.
- (ii) The applicant /accused Junaid Shaikha Rafiq Shekha be released on regular bail in connection with Crime No.280/2025 registered with Vasant Nagar Police Station, Yavatmal for the offence punishable under Sections 109[1], 351[2], 351[3], 296, 3[5], 61[2], 49, 111 and 2[b] of the Bhartiya Nyaya Sanhita (BNS), Sections 3, 25 and 27 of the Arms Act and Section 135 of the

Maharashtra Police Act 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 of Pusad, except for attending the trial on the scheduled dates, 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) The accused shall attend each and every date of trial regularly. If he fails to attend the trial for one 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 itself influenced by said observations, during the course of trial.
- (viii) Misc. Applications, if any, are also disposed of.

JUDGE