



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

Criminal Application (BA) No.293/2026

Nashiram Kusalkar V State of Maharashtra thr PSO PS Amdapur, Taq. Chikhli, District
Buldhana

Office Notes, Office Memoranda of Coram,
 appearances, Court's orders of directions
 and Registrar's orders

Court's or Judge's orders

Mr. N.B. Kalwaghe, Advocate for applicant.
 Mr. Chutke, APP for State.

CORAM : M. M. Nerlikar, J.

DATE : 06-04-2026.

Heard learned Counsel for the applicant and learned APP for the State.

2. By this application under Section 483 of the Bhartiya Nagrik Suraksha Sanhita, 2023 (for short, B.N.S.S. Act'), the applicant is seeking bail in connection with Crime No.0288/2025 registered with the non-applicant police Station for offence punishable under Section 103(1) of the Bhartiya Nyaya Sanhita, 2023.

3. The prosecution story in nutshell is that, on 27.08.2025 at about 10.00 pm after dinner, the informant and his brother were chatting in front of the house. The deceased informed the informant that he was going to answer nature's call and accordingly he left. When he did not return for a considerable time, his daughters came searching for him. They went behind the house of the accused to the place where the shed was situated, when they saw applicant coming towards his house in a frightened state they requested the informant to accompany them in search of their father. When they all reached near the shed situated behind the house of the accused, they found the deceased lying near a

heap of stones inside the shed premises. He had sustained a severe injury on his head and was lying in a pool of blood. On the basis of the report lodged by the informant, offence came to be registered.

4. Learned Counsel for the applicant submits that there are absolutely no circumstances implicating the applicant in the alleged murder. He contends that the applicant was arrested solely on the basis of suspicion. It is submitted that the only evidence against the applicant is the statement of the daughters of the deceased, who claimed to have seen the applicant returning from the place of the incident on the fateful night. Beyond this, there is nothing to suggest that the applicant has committed the offence. Learned Counsel further submits that even if the statements of the daughters are accepted, there is no other circumstance indicating the applicant's involvement in the murder of the deceased. Regarding the alleged motive, it is submitted that it relates to an incident allegedly occurred 30 years ago, in which the deceased was accused of raping the applicant's five-year-old daughter, however, the applicant was acquitted in that matter. Learned Counsel argues that this remote incident, which allegedly gave rise to a grudge, cannot be relied upon to establish a motive in the present case. In any event, there are no other clinching circumstances pointing to the guilt of the applicant. Therefore, Learned Counsel submits that, in the absence of relevant incriminating circumstances, the applicant is entitled to be granted bail.

5. On the other hand, Learned Additional Public Prosecutor submits that there exists a strong motive with the applicant to kill the deceased. He further submits that blood-stained clothes were recovered at

the instance of the accused. It is also submitted that the applicant was seen near the spot of the incident by the daughters of the deceased. Considering these facts, Learned APP contends that there is sufficient material implicating the applicant, and, therefore, the applicant is not entitled to grant of bail. Accordingly, he prays that the bail application be rejected.

6. I have considered the rival submissions.

7. Admittedly, the FIR was registered by the brother of the deceased against the present applicant. It is alleged that on 27-08-2025, at about 10:00 p.m., the deceased went to answer nature's call but did not return. The daughters of the deceased began searching for him and saw the applicant coming from the direction of spot of the incident in a frightened condition. This fact was immediately reported to the informant. Consequently, the informant along with the two daughters proceeded to the spot, where the dead body of the deceased was discovered. It is further alleged that approximately 30 years ago, the deceased was accused of committing rape on the applicant's daughter, and it is suggested that the present murder was committed by the applicant out of a grudge arising from that incident. Except for the statements of the two daughters of the deceased, in which they had stated that the applicant was seen coming from the spot of the incident on 27-08-2025 at about 10:00 p.m., there is no other evidence connecting the applicant to the alleged crime. For the prosecution, it is necessary to at least establish prima facie involvement of the applicant in the alleged crime by demonstrating certain circumstances. However, no other clinching circumstances appear to exist.

8. Considering these facts and the fact that the investigation is over and the chargesheet is filed and the applicant is behind bars from 28-08-2025, I am inclined to grant bail on stringent conditions. Hence, the following order :-

- (i) Criminal application is allowed and disposed of.
- (ii) The applicant/accused be released on regular bail in Crime No.0288/2025 registered with the non-applicant police Station for offence punishable under Section 103(1) of the Bhartiya Nyaya Sanhita, 2023 on his executing PR. Bond of Rs.25,000/- (Rupees Twenty Five Thousand only) with one solvent surety in like amount.
- (iii) The applicant shall not enter into the village of Harni, Tah. Chikhali, District Buldhana.
- (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 concerned Police Station and shall not change his place of residence without prior intimation to the concerned Investigating Officer.
- (vi) 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 entail the State to ask for cancellation of bail.

(vii) The observations of this Court are *prima facie* in nature. The Trial Court shall not be influenced by same.

(M.M. Nerlikar, J.)